H.H. 22.7.47

Mas 22/7

R.F. File No. 304/1939.

Collection No.

19

Mysore Residency,

Bangalore.

(20)

P 75

Pros. Serial Nos. 1-56.

Subject.

Donation Union Link on Railways.

Previous References.

Later References.

R.F.382/1940.

A

19/11/46

S-37 (Unbleached).

MGIPO—33—297 (Desi) MFP—(6363/A/M-297) 5-7-45—25,00,000.

62.6.64.
Nares 65667,
78683.
of 9th desp.
Blue
Glubb

NOTES AND PRECIS.

Donation Union Link on Rlys - Judgment of the Madras High Court.

We have now to decide

(1). Can any action be taken against the Auditor? This appears most unlikely.

(2). Should Inspectors be put into the 'kind'? Prima facie, this is desirable, & it is a pity they weren't put in before the trial. We must now examine from legal point of view & with reference to past papers we might possibly consult Bum J. privately Office may examine at once, as it is desirable that D.T. should give his opinion in the matter before he leaves Bangalore

F Rudkin.

19/4/39

Resident.

fb

Paragraph 1(1) ante.

Action against the Auditor.

fr. 107 book
first up

Under Rule 14(1) (d) of the Auditors Certificate Rules, 1932, the Central Govt. may remove permanently or temporarily from the Register the name of any person whom they have declared not to be a fit and proper person to remain enrolled on the Regisfer by reason of any act of negligence, misconduct or ddishonesty committed in his professional capacity, or of any breach of professional propriety. Please see also Appendix 3 to the Rules, at page 129 of the book.

(Q) Attention is invited to S.N.17/cor.p.62 of R.O.F. 1248 of 1936, and also S.N.21/cor.p.67 of that file.

The effect of the judgment of the Madras High Court is that the following charges against the Auditor fail:-

(1) During the period from the 1st July 1931 to the 30th June 1932, he was a party to a criminal conspiracy, the object of which was to commit criminal breach of trust of moneys belonging to the Link.

(2) During the same period, he abetted Amos in committing the offence of criminal breach of trust.

The finding of the High Court need not necessarily fetter the discretion of the Government under Rule 14. To cite an illustration, even though a Police officer who is charged for an offence under any/sections of the in Chapter IX of the I.P.C. is aquitted by the High Court, that decision ~~by itself~~ does not preclude the Government from taking suitable action, and if necessary even to remove him from service.

It will be noticed ~~from~~ that negligence on the part of an auditor is sufficient cause for his removal from the Register; and the following passage ~~from~~ in the

High

High Court judgment shows that it is not unreasonable to presume that there has been negligence on the part of the Auditor. At page 29 of the judgment it is stated:

> "The auditor who does not expose irregularities found in the accounts which he audits certainly does so "at his peril". But what is the risk that he runs? It is the risk of being considered to be an incompetent or a negligent auditor. It is not the risk of being considered to be the accomplice of a fraudulent manager. and if is sufficiently obvious that the auditor's failure to bring to notice irregularities in the accounts, cannot by itself indicate that he has been privy to embezzelment indicated or concealed by the irregularities which he observes".

Audit of the kind done by the 1st accused in this case is performed after the close of the year's working

Para 1(2) ante.

Inspectors.

Please see S.N.12/cor.p.51 of F.1248 of 1936. The judgment at page 28 says "it is, in our opinion, a perfectly justifiable conclusion to say that these matters to which the learned Judge has referred indicate that some fraud was being perpetuated but what that fraud was, how it was accomplished - - - - has not yet been brought to light". In the circumstances it appears that the question of appointing Inspectors should now be revived ~~and reconsidered~~.

A copy of the judgment may be sent to the Pol. Deptt. of the Govt. of India in the Commerce Department and we may perhaps ask for instructions in regard to both the questions - action against the Auditor and appointment of Inspectors.

For orders whether the file may be sent U/O to the District Magistrate for favour of remarks. He may perhaps consult the Registrar of Joint Stock Companies.

SECY.

29.4.39.

9 Inspectors. We are competent to put in Inspectors & must make up our minds Please see the following opinions expressed at various stages:

F. 1248/36. Flag B. Mr. MacIver. Para 50 seq. notes 5, 61 & 63.

Mr Subba Rao. Paras 69-73

Mr Williams. Para 83

10 Auditor. We shall have to make a definite recommendation to the Commerce Dept. in answer to F76/10/37 dtd the 1st May 1937 from Political Dept. This to a certain extent depends on decision re Inspectors. It may be better to wait their report, if they are put in, as I am inclined to think they should be, before proceeding against the Auditor for negligence.

File may now go to Dt. Magistrate as proposed.

3574/39.

C.F.V.Williams,Esq.,I.C.S., Dist. Magistrate,
C. and M. Station, Bangalore,U/O

U/O No.Dy.4222, dated the 1st May 1939.

11 There can be no doubt that action must be taken to straighten out the Link's affairs, and the only way of doing this at present is to appoint an Inspector under the Company's Act. There are two broad - points to which attention must be directed. The first is to see that a satisfactory system of accounting is introduced. The second is to do away with what the Madras High Court described as the "lottery" system of benefits. Benefits must be fixed on an actuarial basis and not left to chance by dividing what is - available among the various claimants. This dividing principle will of course become illegal when the new Insurance Act is brought into force; see Section 52.

12 The Inspector will have to be appointed by the Local Government under Section 138 of the Companies Act. No question of action by the Registrar under Section 166 arises because such action has to be founded on the company's inability to pay its debts, whereas there is no question of the Link's solvency. What is wanted is to regularise its affairs. With the - enforcement of the Insurance Act it would be possible for the Superintendent of Insurance to act under Section 33 of that Act, but I do not recommend that the appointment of an Inspector under the Companies Act should be deferred on that account; the question of enforcing the Insurance Act is I understand still in doubt pending certain amendments.

13 I would suggest that Mr.K.R.Sadasiva Rao might be considered for appointment as Inspector. He is - Accountant General of Posts and Telegraphs and -- ex-Director of Army Audit and Railway Audit, and is now in the Station on leave preparatory to retirement. I do not know him personally. It is essential to get

get a good man or firm and no expense should be spared. The Link can afford and should be made to pay.

14 On the question of disciplinary action against the auditor, I am inclined to agree with the Secretary to the Resident that, unfortunate though the delay may be, it must await the Inspector's report. Having regard to the tenor of the High Court's judgment, which holds the field and must be respected, I do not think it would be advisable to take any formal action against the auditor until the Link's affairs have been thoroughly investigated by the Inspector. The same consideration applies I think to the two criminal charges still pending against the auditor, one in respect of conspiracy and abetment for the year 1932-33, and the other under section 282 of the Companies Act. Having regard to the High Court's observations I do not think this Administration can proceed with these charges without further investigation. There is no doubt in my mind that from all points of view, the most satisfactory Inspector available should be appointed at the earliest possible date.

The Secretary to the Resident in Mysore, Bangalore.

U.D. No. 1743-A-1939, dated 10th May 1939.

15 | Mr Dr. Judge (Registrar of Joint Stock Companies) please give his opinion, & if he agrees that Inspector should be appointed, will he please draft the Terms of reference?

H Emerson
13/5/39

Dr Judge c/o -

CONFIDENTIAL
U/O No.R.Dis.F.304 of 1939
Dated the 16th May 1939.

P.Medapa, Esq.,B.A.,B.L.,
Registrar of Joint Stock Companies,
Bangalore.

16 | The observations in the appendix to judgment "that the Patients Characteristics known of this method devised for the Lakshmikanthaiah is that it is virtually a Holding" seems to alter the whole Situation (page 4 of the judgt) This view was in a way expressed by Major Cook when he said " I can not help feeling that the Donation was in fact an Exchange is a bonafide & not fraudulently run institution"
The Limit in my opinion should not have been Registered at all. The best & not the only course now open is to end the Institution and not try to mend it. I do not see very much of

If a statutory authority for any attempt to abridge the rights of an individual which has been declared in so many words by the highest tribunal in the country.

Action against the auditor: I think that 17
on principle it is not proper to take departmental action against a person who has been acquitted by a Court of law. Even otherwise there is no finding in the appellate judgment that the auditor has in fact been negligent so as to justify disciplinary action against him. In the course of the winding up proceedings it should be possible to find out the reasons for the decision and it will then be proper to take action against the auditor.

Appointment of liquidators. This will 18
be un-necessary if winding up proceedings are initiated or the working of the Bank is prohibited on the ground of its being a Kolhapur.

I made a report on 2/11/1936 for the appointment of an Inspector for various reasons it could not be given effect to. There has since been a complete change in the management and no complaints of mismanagement & embezzlement has reached the Registrar in working after the change. The present management has instituted a suit against Ambs and others for recovery of the amount lost-

to the bank as a result of grievous mismanagement of the affairs of the bank and the said bank is still pending whatever suspicions there might have been for the appointment of Directors in 1936 I do not think that the provisions of Section 138 (1) (c) can now be invoked for the appointment of an Inspector to look into the affairs of the company as they stand same 4 or 5 years ago We find that the company has gone through some ugly or even fraudulent transactions in the past may not be a proper ground for appointing an Inspector now

24 The appointment of an Inspector for the purpose of securing an alternation in the methods of the business so far followed by the company may place the Govt in the position of a company promoter

21 of the Govt should however feel impelled to appoint an Inspector I would suggest it would be best to request the Reserve Bank of India to lend one of their qualified and really competent officers to undertake the work

The secretary to the Govt the Resident in Hyd

V.O dt 21/1/39

22 In connection with the discussions with the Secretary I have gone through the articles of association of the bank and find that the basis for the observations of the appointed judge "that the bank is certainly a bubble ripe for ruin" still in force i.e.

seems to me that 10
attempts to equalise and
minimise the damage as between creditors
to the members who had made the same
contributions to the fund, with a view to
hide and cover the real nature of the
business - a sinking - from the start, and
to and eventually paved the way for the
manipulation of accounts which ultimately
led to the launching of the Prospectus
there has been a continuous and evident
attempt to get money and get hold of
the management from the very beginning
for obvious reasons under the circumstances
the best solution is to have the company
wound up

The Registrar of Joint Stock 23
Companies comes to the help of
Directors with only delay and lengthy
the malady and not cure it the interest
of the Banking employees who have already
suffered a good deal will have to mingle
further loss of the company is allowed to
further

The Official representing the 24
Company of Mohi may withdraw a suit
for the cancellation of the Registration
of the suit on the ground that the objects
of the suits are in the nature of
winding and proper order to settle
Policy and for an injunction restraining (Sweeney & Co's Ltd)
the company from carrying on its business.
A reference to Sects 52 and 69 (1) of the
Companies Act - may be useful here

the Limit is regulated under Sect 26 of the Indian Companies Act.

25 I would also suggest that the best available legal opinion - that of Advocate General of Madras or Bombay - may be taken before any departure is taken

P. Mudaliar
19/6/39.

No C/44
19.6.39

Sec to Govt
V.O dt 19/6/39.

Routine.

The Registrar suggests 2 courses: (i) winding up of the Company, and (ii) institution of a suit by the Collector on behalf of the Secretary of State for the cancellation of the Registration of the Company.

Please see section 166 of the Companies Act. It appears to be impossible to create circumstances under which an application can be made to the Court for the winding up of the Company. The Registrar can present a petition for winding up only if it appears to him that the Company is unable to pay its debts. This is a provision which cannot be invoked in regard to this Company. There does not appear to be any other circumstances under which winding up can be resorted to. It is not quite clear under what provision Registrar suggests winding up.

The next suggestion is the institution of a suit by the Collector for the cancellation of the registration Sircar and Sen's Company Law was referred to. The provision under which this can be done was not traced. Perhaps the Registrar, or the Additional Judge, will be able to suggest how this can be done. It must be first ensured that the Collector has the locus standi to institute a suit of this nature. Sections 91 and 92 of the Code of Civil Procedure do not appear to meet the case.

In all the circumstances, the Companies Act appears to be unsuitable for any effective action against the Link. Winding up can be done only under the Insurance Act. Please see section 53 (2) (iv). That the continuance of the Company is prejudicial to the interests of the policy holders is a matter which admits of the easiest proof. Or again please see section 33. It will

not

not be too difficult to satisfy the Superintendent of Insurance that the interests of the policy holders are in danger. Under sub-section (5) he can apply to the Court for winding up. In any case section 52 will stifle the company, but only after 3 years from the commencement of the Act. Perhaps the Superintendent of Insurance will be the most competent officer to advise what action is most suitable. The Act is likely to be introduced in the Station within the next one month, and perhaps a reference to the Superintendent may then be made through the Political Department.

To the Sec. to the Hon'ble Minister.

Pol Res
26.8.39

Secretary 26 What is the attitude of those who are running the Company/of/Contributors and in general?

If they do not want it wound up, a Court would hardly be satisfied that it would be in the best interests of the policy-holders to wind it up. I doubt whether S.53(2-iv) should be invoked.

I agree with Medappa that it is desirable to wind up the Company. Under Section 69 of the Insurance Act that must be done by 1941 unless the business is reorganised; and reorganisation with some other kind of business seems impossible. If an Inspector were put in, probably 1941 would be reached before he made his report; so why not wait, exerting some pressure on the Company in the meanwhile to wind it up as soon as possible?

The notes in the file have ignored the attitude of the policy-holders and the Company; but so much depends upon what they want and how far they will resist the efforts of the Government to interfere with the working of the Company.

30 If the Company is really ~~an~~ lottery, it is illegal; and all that would be necessary would be to tell the Company it was illegal and that the officers would be prosecuted for conducting an illegal organisation if they did not wind up the Company within a fixed time allowed. That would be a simple and inexpensive way of getting the Company wound up.

31 However, Section 69 of the Insurance Act recognises such a company; and ~~if~~ the Company might successfully resist an order from the District Magistrate that it should wind up its affairs before ~~1941.~~ the three years allowed

32 Section 53 of the Insurance Act does not provide any way of winding up a Company, independent of the Companies Act. It merely affords some additional grounds for winding up. I do not think that any of these additional grounds would be of any use in this case. If a contributory would be willing to file a petition for winding up (at Government's expense there should be no difficulty in getting the Company wound up under section 162(vi). Even here, much depends upon the fight that the Company and its contributors are likely to put up. However, in a Bangalore Court, the chance of getting the Company wound up should be much greater than in Madras (say)

33 Procedure under S.92 C.P.C., would be cumbrous and difficult, and might ~~even~~ be unsuccessful.

34 I would therefore counsel getting into touch with the Company's officers and getting them by a little judicious pressure to expedite what, after all, they must do before 1941.

35 I am of opinion that the Auditor should not be allowed to remain free to inflict himself upon other Companies and individuals. It should not be difficult to get abundant evidence against him of negligence.

A.R.Ru
4.7.39

Secretary

AOJ

16

Donation Union Link on Railways

36

In continuation of my previous note, I would like to bring to the notice of the Hon'ble the Resident that by the 'Transition Scheme' approved by the Actuary to the Government of India the Rules of the Donation Union Link on Railways were slightly modified in order to build up a Reserve to meet the claims on the Link that may arise in future. The maximum and minimum donation payable to each claimant were fixed and it was laid down that payments to claimants should not exceed thrice or be less than the actual donation subscribed by them. The actual amount payable to an individual was however dependent upon wholly incalculable events (such as the members of death, retirement, medical unfitness, retrenchment, resignation or retirement before 55 years and dismissal in each quarter) and therefore upon pure chance which fact as observed by the Madras High Court makes the business conducted by the Link a Lottery. The incentive to mismanage and misappropriate the funds of the Link seem to have also arisen from the fact that a sum of 4 annas per month from the subscription of each member was credited to the 'Working Expenses Fund' of the Link which seems to be a disproportionately large amount to the minimum requirements of the Link.

37

The Link has to comply with the requirements of the Indian Life Assurance Companies Act, 1912, according to the certificate of the Registrar of Joint Stock Companies issued when the Company was first registered in the Station, but at no time has the company complied with its provisions except perhaps ~~for the~~ those contained in Sections 4 and 7 of the Act. Section 5 which relates to the maintenance of a distinct Life Fund is one of the main provisions of the Act not complied with by the Link. The Transition Scheme under which the Company was working from 1-1-1934 ended on 31-12-38, and from 1-1-1939 the company is bound to comply with

Act VI of 1912. Thus the Company has not only been carrying on an illegal business (lottery) but has also been working contrary to the law by which it was to be governed. These things p apart the Government may also consider the desirability of taking steps under Section 34 of the Indian Life Assurance Companies Act, 1912, either for the winding up of the company or for the prosecution of the Directors or both.

P. Mudaliar
5/7/39

CONFIDENTIAL.

To the Controller of Insurance Bombay
V.O C/46. dt 5/7/39

38 The suggestions of all the various officers who have offered advice on this case are varying so much that Government is placed in a very difficult situation. It appears the advice of the Political Department may now be obtained. Draft is submitted for approval.

39 One more suggestion is offered at this stage, however, which does not seem to have so far been considered. Please see section 52 of the Insurance Act. The Act absolutely prohibits the carrying on of business on the dividing principle. The High Court have termed this a Lottery. A greater authority to damn and condemn the system cannot be forthcoming. It should not be difficult to modify the section in its application to the Station to lay down the prohibition from the commencement of the Act, and not 3 years after, as it now stands. The difficult process of winding up and the difficulties of the wishes of the members in regard to the winding up, to which Additional Judge* rightly refers, would not then arise. A thing which is illegal according to the Act need not be allowed to continue even for a transitory period of 3 years. And in the peculiar circumstances of this case, with all the ugly history of the Link, this applies with greater force. All the round about process of resorting to various provisions of law need not be considered. An Act itself will render the continuance of the Link illegal, and it will die a natural death without the interference of Government in any way. Submitted for orders.

para 29 of notes

Vacant modify law for a particular case in Station above

(From para 16)

ASRao
29.7.39

Secretary.

19

40

After further discussion with Judicial Clerk and consideration of the following papers

S.N.19 1/1925 'H' (1) Letter from this Residency to the Actuary to the Govt.of India, dated 8th April 1926,

S.N.43 1/1925 'A' (2) Reply from the Actuary to the Govt.of India, dated the 19th May 1926,

S.N.182/a 4/1928 'U' (3) Letter from the Actuary sanctioning a "Transitional Scheme",

S.N.1 of 'B' & 2 (4) Letter from the Registrar of Joint Stock Companies, No.134, dated 26-6-39 and the reply of the Link,

S.Ns.3 & 4 " (5) Letter from -do- No.207, dated 5-7-39 and the reply of the Link,

S.Ns.5 & 6 " & (6) Letter from -do- No.265, dated 19-7-39, and the reply of the Link,

41 I submit two drafts for approval. D.M. may see before issue.

Ramaya. 3/8/39.

President

Confidential

The Residency,
Bangalore, 4th August 1939..

H.H. Carleston Esq., ICS
District Magistrate, C & M Station.

H.H. Carleston 7.8.39

S.N. (1) + (2) issue

9-9-39

42. Please see para 14 of notes. The other 2 charges are reported to be in respect of conspiracy and abetment for the year 1932-33 (the last one was for 1931-32), and in respect of an offence under section 282 of the Companies Act.

43. The effect of the High Court judgment is that the charge that during the year 1931-32 the auditor was a party to a criminal conspiracy, the object of which was to commit criminal breach of trust of moneys belonging to the Link, fails. Presumably of the 3 charges, the one that had been taken up for trial was the strongest. Ofcourse taking hints from the High Court judgment and regulating the next trial in accordance therewith will be possible. But the question is whether any useful purpose will be served. The prosecution has already cost a great deal. A further attempt to secure a conviction would be vindictiveness on the part of Government. The source of greater mischief is the Link, where the Madras High Court were not at all satisfied that ther was only one kind of swindle going on. The Political Department's advice has been sought in regard to closing down of the Link altogether. Prosecution of an auditor for a swindle in the Link, perhaps one of a series, is a subsidiary matter from this point of view.

× S.N. 1 / Cor. p. 1

44. Perhaps the charge-sheet in regard to an offence under the Companies Act has greater chances of success, and will not cost as much as the last case. Please see para 6 of notes which contains a passage from the judgment of the Madras High Court. But a reference has already been made to the Commerce Department regarding action against the auditor under the Auditors' Certificates Rules; ~~xxxx~~ perhaps such action, if they are inclined to take it, would be more effective upon himself and the other members of his profession than a conviction.

S.N. 2 / Cor. p. 4

It is for consideration, however, whether the orders of the Commerce Department may be awaited before a final decision is taken in the matter.

45 Submitted for orders.

AsRao
14.8.39

Secretary 46 In the meantime we might as well make up our own minds. Personally, I am against any further prosecution on the ground that further expenditure of public money is not justified. Will D.T. please give his own opinion?

HRRao
15/8/39

D7.01a

Confidential
U/o No.F.304/1939.

The Residency, Bangalore,
15th August 1939.

H.H. Carleston Esq., ICS.,
District Magistrate, C & M Stn.

47 I quite agree with S.R. The prosecution, though ultimately unsuccessful has had its effect. There is no point — repeating the process.

Resident. HRRao 16/8/39. D17/8

H.H. Carleston
16.8.39

43 District Magistrate now may be officially told that after a careful consideration of all the points involved, Resident is of the opinion that the other two charges need not be proceeded with. Draft submitted.

ASRa
19.8.39

Secretary

21/8/39

S. N. (illegible)

Dy.No. 9571 S.N. 5

49 J.C. Early. I believe petitions have been presented to the Court direct. If so, we must tell Political Department in continuation of our letter.

H. T.
15-9-1939.

50 Before informing the Political Department of the petition for winding up, perhaps the result of the enquiry may be awaited; for it is understood that it is being urged on the other side that the petition is not even maintainable. The matter stands posted to Monday, 18th September. The Court would come to some conclusion on that day, and the Political Department may be informed about the matter, and the District Judge may be informally instructed to expedite the hearing. If the petition for winding up fails, the other question of refusal to register the Company under the Insurance Act must be pursued. If on the other hand, the Court orders the winding up under section 162(vi) on the ground that it is just and equitable the matter is considerably simplified and no further action would be necessary on the part of Government. For orders whether further action may be deferred until Monday.

ASRa 51 - I agree
15.9.39

Secretary

16/9/39

Please see para 50 of notes. It is understood that arguments were addressed for one full day, and that orders are reserved. As stated above if the winding up is ordered, the action proposed by this Residency to the Political Department need not be pressed. But if it is not possible to wind up the Company some action to force the Company from stopping work must be ~~xxxxxxx~~ pursued: on the lines of the reference to the Political Department for action on the part of the Superintendent of Insurance. Perhaps orders of the Court may be awaited.

In this connection it may be mentioned that Mr. Thomas, Superintendent of Insurance, is visiting Mysore in October. The possibility of a discussion with that Officer may be considered.

Put up the when this comes up again

ASRa
19.9.39

Certainly
20/9/39

Secretary.

Dy.No. 10,030 S.N. 6

It is clear now that the Government of India are of the opinion that the Donation Union Link is an Insurer for purposes of the British Indian Act, and they are exempting the Link from statutory requirements under section 116 of the Act as in force in British India. The Superintendent of Insurance can take into consideration the various points raised by this Residency in regard to the provisions of the Insurance Act although that Act has not yet been applied to the Station. Perhaps these points may all be discussed with that Officer during his ensuing visit to Mysore during the middle of next month. As verbally directed, a draft* d.o. to Chief Secretary is submitted.

* Not issued.

55

It appears the Political Department may be kept ~~in~~ informed about the winding up petition and its ~~re~~ sequel~~l~~. Draft submitted.

56

A copy of the Commerce Department Notification may be sent to the Registrar of Joint Stock Companies for information. Draft submitted.

AsRao
29.IX.39

30/9/39.

Secretary.

Resident

S. No.(708): Issue

Dy.No. 10,011	S.N. 9
Dy.No. 10,081	S.N. ~~10~~ 10
Dy.No. 10,278	S.N. ~~11~~ 11

S.N.'s 10 and 11.

57

Certain petitions addressed to the Labour Ministe Madras and the Prime Minister have been sent to this Residency for such action as may be considered necessary. The winding up proceedings have already been instituted, and as the matter is sub- judice, perhaps no action is necessary. Many more of such petitions and counter-petitions will perhaps pour in in due course. If approved, they may be filed.

S.N. 12.

Draft submitted. (It is understood that the Official Receiver has been appointed Provisional Liquidator).

Secretary.

AsRao
7.X.39

54 Issue draft. acknowledge Madras letter, send petitions in original to Registrar of JCC for disposal.

A Rao.
8/10/39.

S. N.(12) issue

60 Two drafts are submitted.

AsRao
10.x.39

11/10/39.

Secretary.

S. Nos (13 & 14): Issue.

Dy. No. 10,678	S. N. (15).
Dy. No. 10,679	S. N. (16).
Dy. No. 10699.	S.N. (17).
Dy. No. 10777.	S.N. (18).

61 S.N. ~~15~~ 17 which is addressed to the Resident's Court may be transferred to that Court. S.N. ~~16~~ 15, 16 & 18 may be forwarded to the Registrar of Joint-Stock Companies, C & M Station, in continuation of S.N.14 — please see para 59 above.

exp.

Draft submitted with f.c.

24.10.39

25.10.

AsRao
24.x.39

S. No (19): Issue.

68 For purposes of the Appeal now pending in the Court of the Resident against the order of the District Judge appointing a Provisional Liquidator, certain affidavits have been filed by the Directors of the Link, in which references have been made to assurances given by the Superintendent of Insurance that the registration of the Link under the Insurance Act would be made in due course, and that the Company would be permitted to work under the Transtional Scheme. Please see paras 2 to 12 of the Affidavit filed by the Directors.

plean see (V)

(V)

69 The main Application for the winding up of the Link has been stayed by the Additional Judge pending the disposal of the Appeal now on his file. ~~If approved~~ It is for consideration whether the facts may be brought to the notice of the Political Department, and they may be requested to consider the points raised by Resident irrespective of the Proceedings now pending in the Courts. Draft submitted.

AsRao
16.11.39

Secretary.

70 As discussed with me. Draft for approval

17/11/39

Resident.

SRo(36):(Secret

+ A
20-12-39

29

Dy.No. 12,402 S.N.(37)

F & T. Please see S.N.7 and 36.

Para 3 of s.n.7:

71

Papers not put up

A Miscellaneous Appeal (C.M.A. 5-39) and a petition (C.M.P.29-39) were filed on 28-8-1939. On the Appeal the following order was passed:-

"Admit. Notice to 24/10/39."

In the orders passed on the petition it is stated:-

"However pending the return of notice on 24/10/39, the lower Court should not interfere with the actual management of the Co. by the directors". The notice ordered on the Appeal was one under rule 12 of Order XLI in the First Schedule to the Civil Procedure Code, 1908. If approved the position may be explained to the Political Department.

* P 2039 Unrepealed Ch. I. of A.P.C. Vol I 1920 Edn.

Flag (T) 12

Apparently S.N.36 and puc have crossed each other. No further developments have taken place. Please see the Note in the linked file below.

Keeps pending 73 posts infra.

Draft submitted for approval.

6.12.39

7/12/39.

(Paras 7 1/2 2

Secretary

Resident.

S.N (38): Issue

APPEALS IN THE DONATION UNION LINK CASE.

C.M.A.Nos. 5, 8 and 9 of 1939 - appeals against the orders of the District Judge appointing a Provisional Liquidator etc., - came on for hearing on the 6th November 1939. A preliminary objection was taken by the respondent (M.Murugesha Mudaliar) that the Manager is not competent to represent the Donation Link. The Court passed two orders (1)"* * The appeal(s) will therefore be adjourned to 11-12-1939 by which time the appellant must obtain the Board of Directors' instructions to oppose these appeals" and (2) "In view of my predecessor's order dated 25/9/1939 the Provisional Official Liquidator should not in any way interfere with the management or take over any assets. * * * O.P.59/38 - the petition for liquidation - stands posted to 17/11/1939. The hearing of this petition should be stayed pending disposal of the appeal C.M.A.5/39 by this Court".

On 28/11/1939 the appellant produced a list of documents to be referred to at the time of the hearing of the appeal.

On 29/11/1939 the appellant produced a copy of the resolution passed by the Board of Directors.

6.xii.39.

7/12/39

Secy.

Dy.No.12,419. S.N.(39).

74 With reference to para 59 of notes ante all petitions and copies of petitions received in this Residency were sent in original to the Registrar of Joint-Stock Companies, C & M Station, for disposal. If approved puc may also be sent to him.

Draft submitted with f.c.

Sd. 14.12.39.

S.N.(40) : Issue.

75. On the 11th December 1939 the miscellaneous appeal has been allowed. For orders whether a copy of the judgment may be sent to the Political Department with reference to S.Nos.36 & 37.

76 Sd. 15.12.39.

Yes, please.

16/12/39.

Secretary

77 Draft submitted for approval.

Sd. 17.12.39.

Secretary.

S.No.(41): Issue

CORRESPONDENCE.

S. IV. 1

CONFIDENTIAL.

Issued 9.8.39

R.Dis.No.304-39.

From

The Hon'ble Lieut. Col. J.H.Gordon, C.I.E., O.B.E., M.C.,
Resident in Mysore.

To

The Secretary to His Excellency
the Crown Representative, SIMLA.

Dated Bangalore, the 9th August 1939.

Donation Union Link on Railways.

Sir,

I have the honour to refer to your letter No.F.76/I.B./37, dated the 6th May 1937 and subsequent correspondence.

2. A description of the Link was given in letter from this Residency No.F.1248-36/R.O.I, dated the 25th January 1937 The alleged defalcations were said to have been carried out under the direction of the Managing Director, Amos, who died in 1936. In 1937, a prosecution was launched against the auditor and other persons involved. Two accused persons including the auditor were convicted by the Sessions Court; but their appeal was allowed by the High Court of Madras in their judgment of the 13th April 1939, in which they were acquitted. The following sentence occurred in the judgment:

> "It would be easy, but profitless, to expose in detail many defects in the rules. The salient characteristic however of the method devised for distribution is that it is virtually a lottery."

On the last page of the judgment the Bench recorded its opinion that there were many highly suspicious circumstances in the conduct of the Link, that there was "a strong odour of fraud" and that they were not at all satisfied that there was only

only one kind of swindle going on in the Link during the lifetime of Amos.

3. The prosecution was initiated by the District Magistrate, Civil and Military Station, Bangalore, before the receipt of your letter under reference regarding the appointment of Inspectors. A large number of the relevant records were filed in the Court and therefore until the present date the appointment of Inspectors could not be considered. I doubt whether it is appropriate to appoint Inspectors at this stage. There has been no complaint recently against the management of the Link and the practical advantages to be derived from such an investigation are doubtful. I consider however that the whole system of the Link is fundamentally unsound and that, if possible, its existence should be terminated. The past history of the Link from its inception until the recent prosecution shows that it is open to very grave abuse and it is liable to be abused in the future. There appears to be no provision in the Companies Act under which it can be wound up. The Link was registered under Section 26 of the Companies Act on condition that it complied with the provisions of the Indian Life Assurance Companies Act, under the direction of the Actuary to the Government of India. In January 1934 certain changes were made in the rules and a transitional scheme for five years was sanctioned by the Actuary to the Government of India. He ordered then that at the conclusion of the five years, the Link should undergo an actuarial valuation and adopt such permanent scheme as may be recommended by the Actuary on the results of the valuation. The Company's Actuary has recently made a valuation and the Management will shortly submit a permanent scheme for the sanction of the Actuary to the Government of India. The Link carries on Insurance business in British India and must be subject to the new British Indian Insurance Act. When the Insurance Act is applied to the Civil and Military Station

(please

(please see my letter No.R.Dis.283-39/Judl. dated the 22nd July 1939), the link will be subject to the provisions of that Act, except in so far as it has complied with the requirements of the British Indian Act. It is understood that the Link is carrying on correspondence with the Superintendent of Insuranc but that it has not yet been registered under the new Act. It appears that the only effective action in regard to the future of the Link that can be taken, must be taken by the Superintendent of Insurance under the Insurance Act, either as in force in British India, or as applied to the Civil and Military Station. He will presumably consider whether the Link should be registered at all under clause (6) of Section 3 or whether he should take action either under Section 33 or Section 53(2)(b)(iv) The system of the Link in any case appears to offen against the provisions of Section 52, though no action can be taken on that account for three years from the commencement of the British Indian Act. I suggest therefore that copies of the Sessions Judgment and High Court's Appeal Judgment and my opinion as stated in this letter should be placed before him for his consideration, if there is no objection. I shall be glad to know whether you agree with the procedure proposed. Copies of the rules, etc. of the Link and of the judgments of the Sessions Judge and the High Court are enclosed for reference.

4. With reference to paragraph 2 of your letter quoted above, I enclose a copy of my letter to the Government of India in the Commerce Department.

I have the honour to be,

Sir,

Your most obedient servant,

Lieut. Col.,

R E S I D E N T.

KS.

S. N. 2.
Confidential

4

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / Memorandum / Telegram

Issued 9/8/37

INLAND: Immediate / Important / Express / Ordinary

FOREIGN: Immediate / Important / Ordinary / Without priority

R.D. No. 304-39. Dated 9th Aug. 1939.

Class for telegrams

To be issued on

Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading:

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

From

The Resident.

To

The Secy. to the Govt.of India,
Commerce Department.

Donation Union Link on Railways.

Sir,

S.N.17
c.p.62
F.1248-36 Q

(Code telegrams)

In letter No.F.76/I.B/37, dated the 6th May 1937, the Political Dept. asked me to forward direct to the Govt. of India in the Commerce Dept. a formal report regarding the conduct of the auditor of the Donation Union Link on Railways, Mr.K.V.Subbiah Naidu

'M' & 'W'

I enclose copies of the Sessions judgment and the High Court Appeal Judgment in the criminal case against him for your consideration whether action can be taken against him under rule 14(1)(d) of the Auditors Certificate Rules, 1932, in spite of his acquittal in the High Court.

I have etc.,

Resident.

S. 5.
MGIPC—S5—1595(S&P)MFP—GI-9141—6-3-39—60,000 Pads.

5

No. 2760-C-39.

S. N. 3

Office of the District Magistrate,
Civil and Military Station, Bangalore.

Dated 27th July 1939.

FROM H.H. Carleston, Esq., I.C.S.,

DISTRICT MAGISTRATE, CIVIL AND MILITARY STATION,

BANGALORE.

To

The Secretary to the Hon'ble the Resident in Mysore,

Bangalore.

SIR,

5721. A-127. 9/6. 7816

Donation Union Link cases - other 2 charges-offence of criminal conspiracy and abetment for 1932-33 and offence under section 282 Company's Act.

- - -

Please refer to the correspondence ending with my U.O.No.1743-A-39, dated the 10th May 1939 and kindly let me know whether the question of proceeding with the other two charges of the link has yet been decided.

paras 11 - 14 of noks

I have the honour to be,

Sir,

Your most obedient servant,

H.H Carleston

DISTRICT MAGISTRATE.

MAB.27/7.

S N. 4

16

Issued 21/8/39

Issue 21/8

DEPARTMENT.

BRANCH.

File No.

R.Dis.No.F.304-39
Judl

Serial No.

Draft Letter / Memorandum / Telegram

Class for telegrams	INLAND:	FOREIGN:
	Immediate	Immediate
	Important	Important
	Express	Ordinary
	Ordinary	Without priority

Dated 21st August 1939.

To be issued on

Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading:

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams.)

P.U C
S.N.3

To

The District Magistrate,
Civil and Military Station,
Bangalore.

Donation Union Link cases.

Sir,

I am directed to refer to your letter No.2760-C-39, dated the 27th July 1939.

2. After a careful consideration of all the points involved, the Hon'ble the Resident is of the opinio that the other two charges need not be proceeded with.

I have etc.,

(Sd) H. Tremlyan.

Secretary to the Resident.

AsRao
9.8.39

S. 5.
MGIPC—S5—1505(S&P)MFP—(M-944)—6-3-39—60,000 Pads

By Regd Post

J.C. Early I believe petitions have been presented to the Court direct. If so, we must call for Dept. in continuation of our letter No. 17905

17

S.N. 5

To

The Hon'ble Resident

in Mysore,

Bangalore.

Respected Sir,

We, the undersigned, members of the Donation Union Link on Railways, No. 47 Cockburn Road, Bangalore, beg to forward a copy of the petition dated 11-9-1939 by a Member for winding up of the Company. We beg to state that the President of the Link has issued a Circular recently that the Government will be approached for sanctioning the old scheme and work the Company. We are against the continuing of the Company as it will be against our interests and detrimental to the existing members.

We pray, ~~therefore~~, that the Hon'ble Government be pleased to reject the request, if any, of the Company to work the same.

Thanking you,

We beg to remain,
Respected Sir,
Your most obedient servants,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9571
File No.

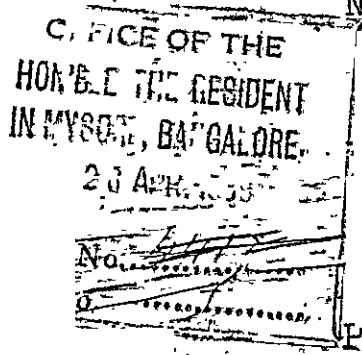
Mysore,
Dated: 12 -9-1939.
Encls:- ten.

1900 [illegible]
6151. S. L. Rajeeswara
977 Shantmada
52996 S. A. Mahadev
50028 M. Arthur
5071 T. Srinivasa Rao
15834 [illegible]
(Signatures Continued)

Mr. W.C.Y

2.5.39

Enclosure to the Political Department endorsement No.F.55(2)-G/39, dated the 15th April 1939.



Political Department.
Simla.
The 24th April 1939.

To

The Hon'ble the Resident in Mysore.

S. N. 6

No. 621-I(1)/39.

Government of India.

DEPARTMENT OF COMMERCE.

Simla, the 23rd

NOTIFICATION.
Insurance.

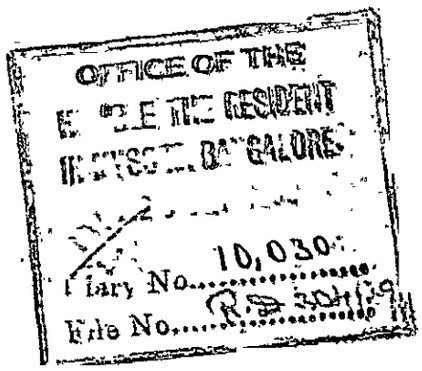
In exercise of the powers conferred by section 116 of the Insurance Act, 1938 (IV of 1938), the Central Government is pleased -

(i) to exempt the Donation Union Link on Railways, Bangalore, and the All-India and Burma Provident Fund, Bangalore, both of which are insurers constituted in the Indian State of Mysore, from the provisions of sub-sections (3) and (4) of section of the said Act subject to the condition that the deposit required to be made by each of the above insurers under clause (a) of sub-section (1) of the said section may be made in instalments, of which the first shall be a payment, made before or at the time the application for registration under the said Act is made, of twenty-five thousand rupees or such sum as with any deposit previously made by the insurer under the provisions of the Indian Life Assurance Companies Act, 1912 (VI of 1912) as applied to the Civil and Military Station of Bangalore, brings the amount deposited up to twenty-five thousand rupees, and the subsequent instalments shall be annual payments, made before the expiry of each subsequent calendar year, of an amount in cash or in approved securities estimated at the market value of the securities on the day of payment of the instalment, equal to one-third of the gross premium income received in the previous calendar year; and

(ii) to direct that the provisions of sub-section (2) of section 27 of the said Act shall apply to the said insurers

as .....

as if for the words "thirty-three and one-third per cent. of the said sum in Government securities, and the balance", the words "twenty-five per cent. of the said sum in Government securities and a further sum not being less than thirty per cent. of the said sum" had been substituted.



(A.H. Lloyd)

Secretary to the Government of India.

No. 621-I(1)/39.

A copy is forwarded to:-

1. The Resident in Mysore;
2. The Secretary, the All-India and Burma Provident Fund, 9-A Central Street, Bangalore;
3. The Manager, the Donation Union Link on Railways 47 Cockburn Road, Bangalore; and
4. The Political Department.

By order, etc.,

Assistant Superintendent of Insurance.

S. N. 7

R.Dis.No.F. 304-39
Judl.

Issue 6/10/39
6/x

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / Memorandum / Telegram

Class for telegrams	INLAND:	FOREIGN:
	Immediate	Immediate
	Important	Important
	Express	Ordinary
	Ordinary	Without priority

No.

Dated 6th October 1939

To

The Secretary to His Excellency the Crown Representative.

Donation Union Link on Railways.

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

(F) * S.N.1 / Cor.p.1

from the Judges order at (H)

Sir,

I have the honour to refer to my letter R.Dis.No.304-39, dated the 9th August 1939.

~~It is understood that an~~ An application was presented on the 11th September 1939 by a contributory for the compulsory winding up of the Donation Union Link on Railways, and on the same day another application was filed under section 175 of the Companies Act for the appointment of a Provisional Liquidator in order to take charge and preserve the assets of the Company pending the disposal of the petition for winding up. After hearing arguments on a preliminary point ~~regardi~~ ~~regarding the maintainability of the~~ whether ~~petition~~,

S. S.
MGIPC—S5—1535(S&P)MFP—(M-944)—6-3-39—60,000 Pads.

~~petitioner~~, the District Judge passed orders holding that the petition was maintainable, and also that it was necessary and desirable to appoint a Provisional Liquidator. I enclose a copy of the order.

Case papers in Con. file weather.

The Company filed a miscellaneous appeal against that order in the Court of the Resident. The appeal has been admitted and notice ordered to the 24th October 1939. Pending the return of the notice, the Additional Judge has ordered that the Liquidator should not interfere with the actual management of the Company by the directors.

When Mr.Thomas, the Superintendent of Insurance, visits Mysore during the middle of next month, I propose to discuss with him, if there is no objection, the matters mentioned in my letter to you. I shall write again after these discussions and final orders are passed on the Appeal.

I have etc.,

Resident.

A.S.Rao
29.IX.39

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 18th October *193* 9

Issued 18/10/39 Issue 61

R.Dis. No. F. 304-39 Judl Enc. 1.

A copy of the undermentioned paper(s) is forwarded to the

Registrar of Joint Stock Companies, Civil and Military Station, Bangalore, for information.

for information, ~~in continuation of~~ / with reference to the correspondence ~~ending~~ with (his)

~~Memorandum~~ / letter / endorsement from

~~No.~~ dated the

By order, etc.,

~~Secretary~~ to the Resident in Mysore.

List of papers.

P.U.C SN. 6

Notification of the Government of India, Department of Commerce, No.621-I(1)/39, dated the 23rd September 1939.

ASRao 29.IX.39

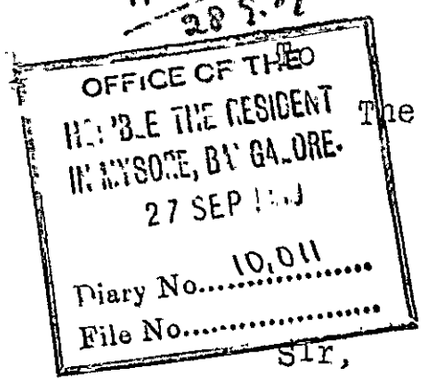
S. N. 9

DEVELOPMENT DEPARTMENT.

No.23534 IV/39-2.

From

Sri Diwan Bahadur V.N.Viswanatha Rao,
Secretary to the Government of Madras,



The Hon'ble the Resident in Mysore,
Bangalore.

Dated Fort St.George, the 22nd September 1939.

Sir,

I am directed to forward for such action as you may deem necessary, certain petitions in original received from the members of the Donation Union Link on Railways, Bangalore.

I have the honour to be,
Sir,
Your most obedient servant,

P Ramakrishnan
25-9-39
for Secretary to Government.

G.V.K.

S. N. 12 11

FRASER & ROSS,
CHARTERED ACCOUNTANTS.
REGISTERED ACCOUNTANTS UNDER
THE INDIAN COMPANIES ACTS.
MADRAS.

AND AT ASIATIC BUILDINGS.
BANGALORE.

TELEGRAMS "VERIFY" { MADRAS / BANGALORE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
5 .. .193.
Diary No. 10,278
File No.

17, Armenian Street,
Madras.

4th October 1939.

The Secretary to the Hon'ble the Resident in Mysore,

B A N G A L O R E.

Sir,

DONATION UNION LINK ON RAILWAYS.

S.N. 18
Cap 64
F 1248-36

We beg to refer you to your letter Ref.No.F.1248-36/R.O.1 dated the 10th June 1937 in which you indicated that our services would be required to investigate the accounts of the Link.

The suggestion has now been made to us that our firm might be appointed Liquidators of the Link but we are unable to agree to our name being put forward unless we are assured that in doing so there will be no conflict of interests in respect of any work that you may call upon us to perform.

We shall be obliged therefore if you will be good enough to inform us whether we shall be called upon to carry out any work on behalf of the Hon'ble the Resident and whether there is any objection to our agreeing to accept appointment as Liquidators.

We are informed that the District Judge, C. & M. Station, may be making the appointment within the next few days and the favour of an early reply will be appreciated.

We have the honour to be,

Sir,

Your obedient servants,

Fraser & Ross.

K. R.

S. N. ~~13~~ 12

R.Dis.No.F. 304-39 Judl. Dated October 9/10/ 1939.

Issued. 7/10/39 SH

Issue 9/X

To

Messrs. Fraser & Ross,
Chartered Accountants,
No. 17 Armenian Street,
Madras.

Donation Union Link on Railways.

P.4. c. III
S.N. 12

Sirs,

I am directed to refer to your letter dated the 4th October 1939.

As proceedings to ~~wind~~ wind up the Company have been instituted, there is no ~~possibility~~ likelihood of your being engaged to investigate the accounts on behalf of this Residency.

I have. etc.

Secretary to the Resident.

QSR 7.X.39

Ser. 13

R.Dis.No.F. 304-39 Judl: Dated 17th October 1939.

Issued 17/10/39 D.M.

Issue 11/x

To

The Secretary to the Government of Madras, Development Department.

Sir,

I am directed to acknowledge the receipt of your letter × No.23534 IV/39-2, dated the 22nd September 1939, forwarding certain petitions received from the members of the Donation Union Link on Railways, Bangalore.

I have etc.

Secretary to the Resident.

× P.W.C I
SN. 10

D.R.Rao
10-x-39

Sub. 14.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th October *1939*.

Issued 17/10/39 Issue 111

R. Dis. No. F. 304-39 Judl

A copy of the undermentioned paper(s) ~~is~~ are forwarded to the Registrar of Joint Stock Companies, Civil and Military Station, Bangalore, for disposal.

~~for information,~~ ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with (his)~~

Memorandum / letter / endorsement from

~~No.~~ , ~~dated the~~

By order, etc.,

Secretary / ~~Asst. Secy.~~ to the Resident in Mysore.

List of papers.

encls to S.N. 9. P.U.C. I

1. Petitions addressed to the Honourable the Labour Ministe Madras, and the Hon'ble the Prime Minister to the Government of Madras, with enclosures.

P.U.C. II / S.N. 10

2. Copy of letter from certain members to the President, Board of Directors, Donation Union Link on Railways, dated the 12th September 1939.

A.S.R. 10.X.39

SM 19

THE OFFICE OF THE HON'BLE THE RESIDENT
IN MYSORE,

Dated Bangalore, the 16th October 1939.

Issued 26/10/39

R.Dis.No.F.304-39
Judl.

The undermentioned papers are forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 17th October 1939.

By order, etc.,

for Secretary to the Resident.

24.10.39

24.X.39

1. Telegram from the Station Superintendent, Secunderabad, dated the 20th October 1939.

2. Petition from K. Narasimhachari and others dated the 14th October 1939.

3. Petition from certain members of the Donation Union Link on Railways, dated the October 1939.

S.N. 24

THE OFFICE OF THE HON'BLE THE RESIDENT
IN MYSORE,

Dated Bangalore, the 28th October 1939.

Issued 27/X
28/10/39

R.Dis.No.F.304-39/Judl. Enc-4.

The undermentioned papers are forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 26th October 1939.

S.N. 19 (F)

By order, etc.

27.10.

for Secretary to the Resident.

26/X/39

26.X.39

1. Petition from certain members of the Donation Union Link on Railways, dated the October 1939.

2. Petition from certain members of the Donation Union Link on Railways, dated the 23rd October 1939.

3. Petition from certain members of the Donation Union Link on Railways, dated the 15th October 1939.

4. Petition from certain members of the Donation Union Link on Railways, dated the 23rd October 1939.

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 31st October 1939.

R.Dis.No.F.304-39/Judl.

The undermentioned papers are forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 28th October 1939.

By order, etc.,

for Secretary to the Resident.

1. Petition from certain members of the Donation Union Link on Railways of Kumarapuram Branch, dated the 20th October 1939.

2. Copy of the resolution of certain members of the Donation Union Link on Railways.

SN 29

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 2nd November 1939.

Issue issued.
2/XI 2/11/39

R.Dis.No.F.304-39/Judl. Enc.1.

The undermentioned paper is forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 31st October 1939.

By order, etc.,

2/11.39

for Secretary to the Resident.

31.10.39.

A.S.Ra. 1-XI-39

Copy of letter from certain members to the Manager, Donation Union Link on Railways, Bangalore, dated the 27th October 1939.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 14th November 1939.

Issue 8/11

Received 11/11/39

R.Dis No. F.304-39 Judl. Enc (1)

~~A copy of~~ the undermentioned paper(s) is forwarded to the

Registrar of Joint-Stock Companies, Civil and Military Station. Bangalore. for favour of disposal.

~~for information~~, ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with (his)~~

~~Memorandum~~ / ~~letter~~ ~~from~~ / ~~endorsement~~

~~No.~~ ~~, dated the~~

By order, etc.,

for Secretary / ~~Asst. Secy.~~ to the Resident in Mysore. 7.11.39

List of papers.

8/No.30/Misc. Letter from Mr. A.Dique, Driver, M & S M Railway, Bitragunta, dated the 2nd November 1939.

Copy to Mr. A. Dique, Driver, M & S M Railway, Bitragunta, for information.

6.11.39

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 9th November 1939.

R.Dis.No.F.304-39
Judl.

The undermentioned paper is forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station. Bangalore. in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl. dated the 2nd November 1939.

By order, etc.

for Secretary to the Resident.

Copy of letter from certain members to the Manager, Donation Union Link on Railways, Bangalore, dated the 2nd November 1939 (with 1 anna postal stamp).

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 17th November 1939.

R.Dis.No.F.304-39 Enc-1
Judl.

The undermentioned paper is forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl. dated the 9th November 1939.

By order, etc.,

for Secretary to the Resident.

Copy of letter dated the 9th November 1939 from Mr. P. Viswanathan, Relieving Station Master, Warangal, to the District Magistrate, Civil and Military Station, Bangalore.

SN 36

R.Dis.No.F.304-39
Judl.
Enc.1

Issued 1 SSn
24/11/39 22/11
SSn

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / Memorandum / Telegram

Dated 24th November 1939.

No.

Class for telegrams	INLAND:	FOREIGN:
	Immediate	Immediate
	Important	Important
	Express	Ordinary
	Ordinary	Without priority

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

* S.N.7

To

The Secretary to His Excellency the Crown Representative, New Delhi.

Donation Union Link on Railways.

Sir,

I have the honour to refer to my letter R.Dis.No.F.304-39/Judl., dated the 6th October 1939.

2. The miscellaneous appeal filed by the Company has been adjourned to 11th December 1939, and pending the disposal of this appeal, the main application on the file of the District Judge for the winding up of the Link has been stayed.

3. I enclose a copy of an affidavit dated the 2nd November 1939 filed by the Directors of the Link. In view of the fact that the proceedings now pending in Courts will take considerabl time and the result is uncertain, I request that the points raised in my letter R.Dis.No.F.304-39/Judl. dated the 9th August 1939, may be considered.

I have etc.,

Resident.

S. 5.
MGIPC—S5—1595(S&P)MFP—(M-944)—6-3-39—60,000 Pads

AsRao
16.11.39

S.N.1
Corr (F)

Confidential. Sec 37

No.F.335-I.B./38.

From

The Secretary to His Excellency the Crown Representative,

To

The Hon'ble the Resident in Mysore.

Dated New Delhi, the 28th November 1939.

Donation Union link on Railways.

Sir,

Sec.1/E.

I am directed to refer to your letter R.Dis.No.F.304-39/Judl., dated the 6th October 1939, and to state that it is not clear from the clauses "notice ordered to the 24th October 1939" and "Pending the return of the notice", occurring in paragraph 3 of the letter, whether that date was fixed under rule 12 of Order XLI in the First Schedule to the Civil Procedure Code, 1908. (Act V of 1908). This Department will be glad to be informed as to what was precisely meant and what is the present position of the case.

2. I am also to request that a report may kindly be furnished of such further developments as have taken place since it is understood that Mr. Thomas the Superintendent of Insurance has returned from his visit to Mysore.

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary to His Excellency the Crown Representative.

S.156

CONFIDENTIAL.

DEPARTMENT.

BRANCH.

File No.

Serial No.

Issued. 13/12/39 3/12

Draft Letter / Memorandum / Telegram

R.Dis.No.F.304-39 Judl.

Dated 13th Dec. 1939.

Class for telegrams	INLAND:	FOREIGN:
	Immediate	Immediate
	Important	Important
	Express	Ordinary
	Ordinary	Without priority

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

SW.37/12.C.

No.

From The Hon'ble the Resident

To

The Secretary to H.E. the Crown Representative, New Delhi.

Donation Union Link on Railways.

Sir,

I have the honour to refer to your letter No.F.335-I.B./38, dated the 28th November 1939.

2. On the miscellaneous appeal admitted in the Court of the Resident notice to 24th October 1939 was ordered and the date was fixed under rule 12 of Order XLI in the First Schedule to the Civil Procedure Code. The order that pending the return of the notice the Liquidator should not interfere with the actual mangement of the Company by the directors was passed on a separate petition filed simultaneously with the appeal.

3. The present position of the case is as...

P. 203 of Annual Index Central Acts, Vol. V 1938 Edn.

S. 5.
MGIPC—S5—1593(S&P)MFP.—(M-944)—6-3-39—60,000 Pads

stated in my letter R.Dis.No.F.304-39/ Judl. dated the 24th November 1939.

I have etc.,

R E S I D E N T.

S.N.36/ T.

I discussed the coorgan position of the Company generally with Mr. Thomas but understood that my letter F304-39/Judl dated the ~~2nd~~ 9th August ~~October~~, 1939 had not yet been sent to him

6.12.39

40

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MSYORE,

Dated Bangalore, 14 December 1939.

Issue 13/12 Issued 14/12/39 DN

R.Dis.No.F.304-39 Ec.I.
Judl.

The undermentioned paper is forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Resideny R.Dis.No.F.304-39/Judl., dated the 17th November 1939.

Sno. 35 of (F)

By order, etc.,

for Secretary to the Resident.

14.12.39

(Ptd) Send in original

Copy of petition dated the 4th December 1939 from the General Secretary, South Indian Railway Labour Union, Golden Rock, to the Superintendent of Assurances, Government of India, New Delhi.

SN 61

CONFIDENTIAL

Issue 18/12

Issued 21/12/39 SN

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / Memorandum / Telegram

R.Dis.No.F.304-39 Judl.
Enc 1

No. Dated 21st Dec 1939.

Class for telegrams	INLAND:	FOREIGN:
	Immediate	Immediate
	Important	Important
	Express	Ordinary
	Ordinary	Without priority

From The Hon'ble the Resident.

To

The Secretary to H.E. the Crown Representative, New Delhi.

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case of Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

S.N.38 F.
R.Dis.F.304-39.

Donation Union Link on Railways.

Sir,

I have the honour to refer to my letter R.Dis.No.F.304-39/ Judl., dated the 13th December 1939.

2. I enclose a copy of the Resident's Court Appeal Judgment in case No.C.M.A.5/39 passed on 11/12/1939.

I have etc.,

18/12

RESIDENT.

Jc
17.12.39.

S. 5.
MGIPC—S5—1595(S&P)MFP—(M-944)—6-3-39—60,000 Pads.

Political Department,
New Delhi.

D.O.No.F.335-I.B./38. The 13th December 1939

Donation Union Link on Railways.

My dear Colonel,

Will you kindly refer to your official letter R.Dis.No.F.304-39 Judl. dated the 24th November 1939 on the subject of the Donation Union Link on Railways.

2. While your reply to our official letter No. F.335-I.B./38, dated the 28th November 1939 is awaited, I am desired to state that the question of the registration of the Link has to be dealt with separately on its own merits apart from other considerations and this is being done in the office of the Superintendent of Insurance.

3. As regards action under section 33 of the Insurance Act, 1938 the Crown Representative is of opinion that so long as an application for the winding up of the Link is sub judice, no other action can be commenced.

Yours sincerely,

G Francois

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 DEC. 1939
Diary No. 13092
File No.

The Hon'ble Lieutenant Colonel
J.de la Hay Gordon, C.I.E., O.B.E., M.C.,
Resident in Mysore.

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 9th January 1940.

R.Dis.No.F.304-39 Enc 2
Judl.

The undermentioned papers are forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 14th December 1939.

By order, etc.,

for Secretary to the Resident.

Petition dated the 22nd December 1939 from Veerappa Pillay, Pointsman, Palakkavuthu.

Copy of letter from certain members of the Donation Union Link on Railways to the Manager, Donation Union Link on Railways, Bangalore.

SNS 2

THE OFFICE OF THE HON'BLE THE
RESIDENT IN MYSORE,

Dated Bangalore, 30th April 1940.

Issue 29/4

No.R.F.304-39 Enc. 6
Judl.

Issued. 30/4

The undermentioned papers are forwarded to the Registrar of Joint-Stock Companies, Civil and Military Station, Bangalore, in continuation of endorsement from this Residency R.Dis.No.F.304-39/Judl., dated the 9th January 1940.

By order, etc.,

for Secretary to the Resident.

27.4.40

- - - -

1. Copy of letter from Kshitish Chandra Dutt and another to the Manager, Donation Union Link on Railways, dated the 10th April 1940.

2. Minutes of the Meeting of the Members of Donation Union Link on Railways, Waltair Branch, held on 10th April 1940.

3. Proceedings of a meeting of the members of the Donation Union Link on Railways at Golden Rock held on 9th April 1940.

4. Copy of Resolution passed at a meeting of the members of Donation Union Link on Railways, Madura, held on 14th April 1940.

5. Copy of Resolutions passed at a meeting of the members of Donation Union Link on Railways, Tinnevelly held on 13th April 1940.

6. Petition dated the 23rd April 1940 from certain members of Donation Union Link on Railways, Dhond.

J N S 3

Proceedings of the Meeting of the Members of the Donation Union Link on Railways, Bangalore.

Attached to Vriddhachalam over S. I. Ry.

Present

Mr. P. Ramaswamy Chettiar President

No. of Members attended 35

—:o:—

READ.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
4239 30 APR. 1940
Diary No. 4414
File No.

The Course of events took place before the District Judge, C. & M. Station Bangalore during the time of enquiry into the Liquidation petition filed by Mr. M. Murugesa Mudaliar, as published in the "Hindu" of 28—3—40, 1—4—40 6—4—40 & 7—4—40.

RESOLVED THAT:

1. This meeting feels itself very much grateful to the District Judge for his able, judicious and discriminative faculity with which His Honour has been pleased to direct winding up of the company.

2. This meeting does emphatically stress the fact that the Link management is not supported by any of the LINK members or materials on record, since it has been clearly established that the Directors have already squandered vast amount in fighting the just cause for Liquidation and have ventured to waste more by having preferred an appeal and respectfully prays for intercession on behalf of members.

3. The order of the Lower Court is a clear picture showing vividly the instability, insecurity and unworkable nature of the Link.

4. Hence this meeting prays that the previleges of the members in the Link may be saved by rejecting the appeal and confirming the order of the Lower Court.

Station: Vriddhachalam
Date: 24. 4. 40

President

offl. Designation

To The Hon'ble The British Resident, Mysore, Bangalore.

" " Sir. A. Ramasamy Mudaliar, *Commerce Member, New Delhi.*

" " Sir. Andrew Clow, *Railway Member, New Delhi.*

SN 54 (3)

Minutes of the meeting of the members of

Donation Union Link on Railways,

KHURDA ROAD.

NBS 334/29

We the following members of the Donation Union Link on Railways, Bangalore, most humbly and respectfully offer our heart-felt thanks to the Hon: the British Resident in Mysore at Bangalore for having passed orders for the winding up of the Donation Union Link thus saving us from future liability. We also humbly and respectfully beg to submit our prayers that in case, the Board of Directors of the Link who have been all along flouting our wishes choose to file an appeal against the order for winding up, it may be rejected and justice rendered to us.

We, the Members of the Donation Union Link on Railways, Bangalore, most humbly pray the Govt: of India to extend their help and sympathy to us the poor members of the Railway and the Link by completely closing up the Link thus saving us from future liability and preventing the Board of Directors from further wasting our hard earned funds by filing appeals against the winding up order passed on 6-4-40 at Bangalore. In spite of our protests the directors have already squandered vast amounts in fighting against our just cause for liquidation, and are contemplating to waste more money. We are all unanimously of opinion ~~xx~~ that the only way to get justice is through liquidation and hence our humble and respectful prayer for intercession on our behalf.

Resolved that the copies of the above be sent to:-

(1) The Hon: The British Resident in Mysore, Bangalore.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 6 MAY 1940 Diary No. 4616 File No.

(2) Sir, A.Ramaswami Mudaliar Esq.
Commerce Member, Govt: of India,
New Delhi,

(3) The Liquidator of Donation Union Link on Rly.
~~Sir, Andrew Clow Esq.~~ No.47. Cockburn Road
~~Railway member, Govt of India,~~ Bangalore
~~New Delhi,~~

For favour of rendereing justice to the 42,000 poor labourer

(Encl: 3)

SIGNATURES OF MEMBERS:-

M No. 4739. Pnt Khurda Rd

Serial No.	Members No.	Name	Scales 1	2	3	4	Signature
1	17353	K.V.Rahiam S.M	—	1	1	1	
2	16091	S.Ramaswamy			1	1	S.Ramaswamy Campana
3	17184	V.Ramaswamy		1	1	1	
4	23243	Padanaharan Thad	—	—		1	
5	16103	V.Ramamurty			III		V.Ramamurty
6	20293	Amalagunti Dharmapuri			1	1	

		Name	Scales 1	2	3	4	Signature
7	1 44	Akkireddi Audinarayana			I	I	A. Andinarayana
8	31331	Akkireddi Somulu				I	
9	34421	P. Anniah				I	
10	17863	S. Lochan			I	I	S. Lochan
11	16393	C. S. Rao	I	I	I	I	C S Rao
12	51345	Hillondal	X	X	III	IV	Hillondal.
13	40855	N. K. Das			I	I	N K Das
14	16688	R. Jagannadhaswamy			I	I	R Jagannadhaswamy
15	17054	C K. Bhabani			I	I	C K Bhabani
16	15455	A. Venkataswamy			I	I	A. Venkatasamy
17	15454	A. Narayanaswamy					A. Narayanaswamy
18	15453	A. Appalaswamy			I	I	A. Appalaswamy
19	45635	Mekala Appalaraju			I	I	Mekala
20	22442	Gopinath Mohanthy				I	ଗୋପୀନାଥ ମହାନ୍ତି
21	33334	Killi. Venkanna				I	K. Venkanna
22	5575	J. L. Narayana Murty			I	I	J Narayana Murty
24	10922	CH Anadi	I	II	III	IV	Chanadi
25	9535	Rahimanulla	-	II	-	IV	Rahimanulla
26	45533	M Mahadevamma	-	-	-	IV	Mahadevamma
27	21607	Udayanath				IV	ଉଦୟନାଥ
28	7380	Padalalakshmanna			III	IV	
29	10568	Somanaik	-	II	III	IV	Jagannadha Rao
30	14079	Sumanagiri	-	-	III	IV	Sumanagiri
31	10861	Mahmad Siddiqui	I	II	III	IV	Siddiqui
32	7386	Giridhari Mahapatra	-	-	-	IV	ଗିରିଧାରୀ
33	21038	N Jogi Raju	-	-	III	IV	N. Jogiraju
34	10928	Nalla Mallaiah	-	-	III	-	N Mallaiah
35	7370	Yeddala Raghavulu	-	-	III	IV	Y. Raghavulu
36	21201	Appanna	-	-	-	IV	A. Appanna
37	51900	Dukkigadda	-		-	IV	
38	45536	Anandamahanty			-	IV	ଆନନ୍ଦ ମହାନ୍ତି
39	45535	Bandla Lachanna			-	IV	
40	13611	Ranga Venkaiah			-	IV	

	7377	Padala Apparow	–	–	III	IV	P. Apparow	
42	14912	Gowaagi Venkata Appa	–	–	III	IV	G. V. Apparao	
43	31551	Sukdeo			III	IV	Sukdeo	
44	25179	G Seethappa Dr.	–	–	III	IV		
45	13127	Shaik Meeda	–	II	III	IV	SK Mustan	
46	45432	T Narasimhulu	–	–		IV		
47	7366	T Apparow	–	–	III	IV	T Apparao Arm	
48	19306	Rukka Ramesh	–			IV	P.	
49	29894	J. Jamuna	I	II	III	IV	J.	
50	7379	G Appalaswamy	–	–	III	IV	G.	
51	10569	T Venkata Rao	–	–	III	IV	T Venkata Rao	
52	44211	Syed Mehaboob	–	–		IV	S.I.	
53	8845	Padala Venkanna	–	–	IV	–		
54	9850	Kalegadu	–	–	III	IV		
55	40856	Maddala Dhanna	–	–	IV	–		
56	27202	Mahaboob Isaak	–	–	III	IV		
57	18586	Lakshman patchari			III	IV	Lakshman	
58	16094	Debaring Pamaik			IV		D. Pamaik	
59	33314	Ghanshamji Mohanty			IV		Ghanshamji	
60	15896	Madala Satpathi	I	II	III	IV	Satpathi	
61	37083	B. Venkatappadu			III	IV		
62	13728	Jaswant Singh	I	II	III	IV	Singh	
63	17860	S. Paramanandh	–	–	III	IV	Paramanand	
64	31832	D. Seaman	I	II	III	IV	Seaman	
65	28403	Dasharathi Patasahani			III		Dasarathi Patasahani	
66	4546	K Rajeswarlu	I	II	III	IV	Rajeswarlu	
67	13525	Kanthi Reddy Venkat	–	–	III	IV		
68	14081	Bonai Narayana	–	–	III	IV		
69	7385	I. Charles				IV	Charles	
70	7381	Madam Malaka	–	–	III	–		
71	48401	Zahid beg	–	–	III		Zahid beg	
72	9859	Raghunadha Das	–	–	III	IV		
73	25195	Adapa Narayanaswamy			III	IV	Adapa narayana	
74	21592	D. M. Dennis	I	II	III	IV		
75	16428	K. Sriniwasa Rao	–	–	III	IV	K. Srinivasa Rao	

	M. No	Name	Scales	Signature
76	13524	K. Krishnamurty	1, 2, 3, 4	
77	9877	Sanatkan Panda	III & IV	ସନତ୍କୁମାର ପଣ୍ଡା
78	42430	Bonamali Barad	IV	ବନମାଳୀ ବରାଟ
79	24093	Madhudas	IV	
80	24092	Rama Barik	IV	Rama Barik
81	~~21608~~	Fakir charan Sahoo	IV	ଫକୀରଚରଣ ସାହୁ
82	15234	L. Narinayya	III + IV	L. Narinayya.
83	15235	Mulia naik	III + IV	ମୁଲିଆ ନାଏକ
84	16092	K. Swamy	III + IV	K. Swamy
85	34438	S. K. Bose	I, II, III, IV	
86	6731	Jagannath Panigrahy	II & III	Panigrahy
87	36524	Narayana Setty	III + IV	
88	10793	Y. Anjaneyulu	II III IV	
89	16691	BTDSS	III - IV -	BTDSS
90	8541	G. V. Appa Rao	II III IV	
91	43822	L N Acharya	II, III, IV	L N Acharya
92	14913	Gopal Anjaneulu	I II III + IV	
93	7849	J. S. Prasadarao	III IV	J. S. Prasadarao
94	14914	S. Venkateswarlu	III + IV	V. Brahmam.
95	31332	S. Ramaiah	III + IV	Jinnadar
96	3543	Ch. Kattaiah	III + IV	Ch. Kattaiah
97	17187	Othi Rangaswamy	II IV	P. Rangaswamy
98	19301	P Ganeswamy	III IV	P. Ganeswamy
(99)	4739	K. Narasingarao Patnaik	2, 3, 4	
(100)	3352	P. Venkata Rao	III + IV	P. V Rao
(101)	39678	G. V. Ramaiah	III + IV	G V Ramaiah
(102)	33329	m appa da	IV	Ramu 1088 W. W. m appa da

Members of the Pondicherry Union Bank Ltd Employees
Beneficiaries who are to the withdrawal of P.F.

Pass Book number	Member Name	Member's Signature
14 219	Ajambigam	
5068	S. Jeddeah	
220	Sohan Sing	
12198	Ranjeah	
8231	Ramaswamy	
29620	Kapamal	
5513	Syed Omer	
9076	Balaram Rao	
7725	Kempaiah	
40207	Muthukrishna	
38204	Venkata Rao	
20 119	Narayana Nair	
6943	Chamaraja	
12199	Kempaiah	
8121	Jawala	
25419	Chicha	
20995	Sk Mabub	
2	Chenna	
49164	Y Perumal	
14878	Hanumanaiah	
38207	K Abdul Rahim	
43988	Sawai Singh	
32434	M. Ramanga Iyengar	
10008	L.V. Doraisamy	
3516	Syed Dastagir	
9753	Ponnusamy	

P.T.O

27	8989	Yedivelou	
28	5937	Venkata Rao	வெங்கடராவ்
29	5936	A. N. Ananikyam	
30	39225	Gulam Dastagir	
31	8681	Ramaiah	
32	40214	Ramajalu	
33	23469	C. Narasimham	
34	5931	Syed Imam	
35	5074	P.L. Munusamiah	
36		Ej. Snell	
37		K. Muthuswamy	

S.N. 55. Put up with draft group News am's order 27/4

Confidential.

No.F.335-I.B./38.

From

The Secretary to His Excellency the Crown Representative,

To

The Hon'ble the Resident in Mysore.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
27 APR. 1940
Diary No. 4305
File No.

Dated New Delhi, the 23rd April 1940.

Donation Union Link on Railways.

Sir,

87304/39

S.N. 41

(c)

I am directed to refer to your letter R.Dis.No.F.304-39 Judl. dated the 21st December 1939, on the above subject, and to enquire whether a final decision on the petition for winding up of the Donation Union Link on Railways has been arrived at.

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary ~~to His Excellency~~ the Crown Representative.

5956

No.R.F.304-39/Judl.Ex./.

From

The Hon'ble Lt. Col. J. H. Gordon, C.I.E., O.B.E., M.C.,
Resident in Mysore.

Issued 21/5

To

The Secretary to His Excellency
the Crown Representative, Simla.

Dated Bangalore, the 21st May 1940.

DONATION UNION LINK ON RAILWAYS.

Sir,

With reference to your letter No.F.335-I.B/38, dated the 23rd April 1940, I have the honour to say that the District Judge ordered the winding up of the Company and appointed an Official Liquidator. An appeal was preferred, and it stands posted to 2nd July 1940. I enclose a copy of the order passed by the Additional Judge on an application praying that the operation of the order of the District Judge may be suspended pending disposal of the appeal.

I have the honour to be,
Sir,
Your most obedient servant,

O.C.

for RESIDENT.

BJ

TRUE COPY.

IN THE COURT OF THE DISTRICT JUDGE, CIVIL AND MILITARY STATION, BANGALORE.

O.P. No. of 1939.

In the matter of the Indian Company's Act and the Life Assurance Act as applied to the C & M. Station, Bangalore.

IN THE MATTER OF THE WINDING UP OF DONATION UNION LINK ON RAILWAYS,.NO. 47 COCKBURN ROAD, BANGALORE.

PETITIONER:-

M. Murugesa Mudaliar, son of Muniswamy Mudaliar aged about 49, Engine Fitter, Mysore Railways, residing at Srirampuram, Bangalore City.

Under Section 162 of the Indian Company's Act above-named petitioner most respectfully showeth:-

1. That the Donation Union Link on Railways was registered under the Companies Act 1913 on 28-7-1926 and has its office at No.47 Cockburn Road, C & M Station, Bangalore.

2. The Company was formed by one Mr. P.J.Penn and originally registered under Section 9 of the Co-operative Societies Act II of 1912 as applied to the C & M Station.

3. After some time the Collector of this Station found that the Registration was improper and cancelled the same.

4. It was registered under Section 26 of the Companies Act VII of 1923 and also is governed by the Life Assurance Act VI of 1912.

5. The said Company was held to carry on "business" on a wider scale than that prescribed under section 3 of the Provident Insurance Societies Act.

6. The objects, the memorandum of Association and the rules of the Company are set forth in Annexture 'A' which may kindly be read as part and parcel of this petition. Attention is respectfully invited to pages 6, 7 and 23 of the same annexture.

7. The original objects of the Company are set forth in the Memorandum of Association.

8. The said Company does bring profit and does confer special advantages in its working contrary to what is set forth.

9. Your humble petitioner is a member of the Company since 1-11-1921.

10. The affairs of the Company are in very great disorder.

11. The Company is not fulfilling the objects with which it was started.

12. The Company is incurring enormous management expenses and losses as shown in the annexed affidavits, and balance sheets.

13. To the best knowledge of the petitioner the Company if continued in the present state will absorb a substantial portion of the remaining assets of the Company.

14. Several members are in favour of winding up of the same and under the directions of this Hon'ble Court in order to safeguard the interests of the present members and the existing capital and absolve therefrom future liabilities with no corresponding compensation or benefit.

15. In the Judgment of the Madras High Court, in the Criminal Case filed by the Company against an Ex-Auditor

and some members of the staff, their Lordships have observed that the scheme of working of the Company virtually amounts to a lottery.

16. The petitioner submits that the Company more or less will now as it works contravene the provisions of 294 A, I.P.C. and as such is not proper or legal.

17. There is no proper provision for the return of the assets to all the members.

18. The amount that each member may get even if he gets it will very according to chance and other varying factors and there is no principle of equal division or a division in proportion to the subscription.

19. In law the scheme of working amounts almost to a lottery.

20. The petitioner submits that the original subscription of the said Company is gone and that it is not possible to carry on the main objects and essential purposes with which it was started.

21. The Company is now working practically only for the benefit of a few members of the management.

22. During the past 4 years the Company has incurred an expenditure by way of legal charges to the extent of nearly Rs.21,000/- of acturial charges to the extent of Rs.2,800/- and management expenses to the extent of Rs.2.00.000/- apart from expenses to secretaries which is wholly disproportionate to the assets.

23. The Actuary who valued the assets has refused to certify to the solvency in the technical terms.

24. The Company contravenes the provisions of the

Company's Act and the Indian Insurance Act.

25. The Manager has himself issued the annexed circular marked as annexture which show that intricate problems of law and procedure is necessary to resuscitation even if it is possible.

26. The petitioner humbly submits that at last meeting held on 3-9-39 convened by the Directors for the purpose of passing a resolution to adopt a scheme and validate all the acts done and business carried by the Company from 1-1-1939 the entire members present rejected the scheme and resolutions and passed a resolution to wind up the Company immediately.

27. The petitioner humbly submits that there is no prospect of carrying on the business of the Company with a view to benefit the members and according to law.

28. It is not possible to carry out the original objects assuming they are legal and valid and he further submits that the business had practically come to an end.

29. The Company is showing undue preference contrary to the Memorandum of Association and Law.

30. A considerably amount of capital and assets have been spent in unprofitable ways and means and if the Company is allowed to continue it must inevitably becomes insolvent.

31. Under the circumstances the petitioner submits that the further continuance of the Company's business will result in irretrievable loss and the circumstances are such that the members ought no longer to risk their moneys and pay contribution and subscriptions in any further continuance of the Companies business.

32. Questions of considerable difficulty are likely to arise in future and a deadlock is bound to come into existence.

33. Even in the course of winding up questions of considerable difficulty are likely to arise. It is not possible to wind up the Company by voluntary means or otherwise except under the orders of the Hon'ble Court. There is no other remedy except by means of this petition.

34. The affairs of the Company are in such a condition that it is not practicable to carry the objects with which it was formed.

35. Under these circumstances it is just and equitable that the Company should be wound up and under the directions of this Hon'ble Court. Commercial morality and public policy also requires the Company to be wound up.

36. Under the present circumstances the Company will be unable to carry on its business.

37. The petitioner prays:-

(1) that the Company be wound up by this Hon'ble Court.

(2) That a fit and proper person be appointed as liquidator and an ad interim liquidator till the disposal of the petition to safeguard the assets.

(3) That such orders be made in the petition as shall be just equitable and

(4) That the petitioner's costs be provided for separately.

Bangalore,
Dated: 11-9-1939.

Sd/- M. Murugesa Mudaliar.
Petitioner.

Verification.

I, M. Murugesha Mudaliar the petitioner do hereby declare/that what I have stated above is true to my knowledge, information and belief.

Declaration of Counsel.

I, S. V. Subramanium, B.A., B.L., Counsel for the petitioner do hereby declare that what is stated in the above petition is true to my instruction.

PARAMOUNT

COLOR GRAPHICS

File Ending

Bar Code

80722152

A

R Dis File No. 305

1939

Collection No.

H.P
22.7.47

mas
22/7

(1936)

Pros. / Serial Nos. 1-2

(K)

Subject.

Fees charged by Messrs. Sastri & Shah for auditing the accounts of the Donation Union Link on Railways

Previous References.

Later References.

RJ 5-37/40.

S. 97.—(Green).

MFP—1663 S&P—(M-2971)—24-6-38—100,000.

NOTES AND PRECIS.

In the report submitted to the Political Department in connection with the Control of Expenditure during 1938-39 the following remarks have been made against expenditure under --"Account IV - Other Expenditure Heads - F. Administration of Justice - F. 3. Civil and Sessions Court - F. 3. (4) Contingencies."

> " Excess of Rs. 2,000/- anticipated on account of payment of audit fees for auditing Donation Union Link Accounts "

The Judicial Branch may be asked to take such action as is necessary in the matter.

KIL 8.10.38

Sd/- Illegible.

Jc

28.X.'38

Dy.No. 11064 S.N. 1

District Magistrate is reporting the case for the information of the Resident, and has no recommendation to make at this stage. Great difficulty is being felt in noting on this case. That no definite terms of any sort or kind were fixed before entrusting a ~~huge~~ huge piece of work to a professional man- huge at least for the reason that it has entailed a huge claim if not for any other reason - appears unfortunate, it is submitted with respect. It is said in para 4 that Mr. Sastri has declined to accept a lesser fee than ten thousand rupees, which he insisted was reasonable. He seems to want

one

one of two things: his ten thousand or an adjudication by the Commerce Department of the Government of India. Pleas see the Auditor's Certificates Rules, 1932. By reason of the fact that the Commerce Department has disciplinary contr over the Auditors, it is not clear how a reference can be made by this Residency for a kind of arbitration, unless a reference be in the nature of a report to them for disciplinary action. The next step ofcourse rests with Mr.Sastri. But it is to be feared that it will be the extreme step of legal proceedings, seeing that the difference between the sum demanded and the sum offered is so very large.

page 159 of Civil Court Manual - Vol I. 4

In case legal proceedings are instituted, the principle of law that would be applicable appears to be section 70 of the Comtract Act. Mr.Sastri can only ask for compensation from the Government in respect of professional services rendered on the footing of quantum meruit. A claim under quantum meruit arises where work is done not in pursuance of any express or tacit contract, but under circumstances which would import in law an obligation to pay for the services. It may be argued that in view of the wording of section 70, suits cannot be laid on the basis of that section against Government or a Corporation. Whatever may the law in England the balance of authority in India is in favour of the view that the provisions of section 70 may be applied when one of the persons concerned is a Corporation or other public body - 54 Calcutta 189; 10 Rangoon 522. When the principle of quantum meruit is applied, Mr.Sastri's quotation of Rs.4,000/- for a five years' audit and his having gone a-begging for this engagement will afford the most certain conviction to the Court that he is not a very busy professional man and that his adequate compensation should be anything less than 4000/-. This is on the basis that Mr.Sastri's next step is a suit. For District Magistrate's report comes to this, namely that there is nothing more left for him to do. He has obtained the benefit of the Government Pleader's advice and has discussed the matter with Mr.Sastri, whose next step

must now be awaited. If it is to be a suit against Govern: ment, requisite notice will be received in due course.

For the financial aspect of the case, please see paras 1 and 2 of notes. If there are chances of the anticipated amount being required this year, the Government of India will have to be asked for it before the 30th November and in exceptional cases before the 15th February.

Submitted for orders.

D S Rao
12-XI-38

(from para 1)

Secretary.

1/ (1) We are not going to pay his fee.

(2) We don't want a suit if possible, even if we win it, provided we can settle first for a reasonable sum.

(3). If we don't refer to Govt. of India as he suggests, that at any rate may be one point in his favour in a subsequent suit

(4). I see no objection to a reference to Commerce Dept we can admit the mistake & say that Resident has taken suit action to prevent its commencement

8 If Resident agrees, I will draft to Commerce Dept. asking for their opinion, & send draft to D.O. before issue. He will then let us know in detail what if any, are his objections to the reference being made

in the proposed form.

H Rumbold
16/6/38.

Resident. 9 Vide no objection at all to a reference being made to the Commerce Deptt of the Govt of India as we do not think any civil suit against Govt. of India or any of its officers can lie in this case.

V 9157x1

10 Draft to the Commerce Department is submitted for approval. A copy may be forwarded to the District Mggistrate as ordered in para 8 for ascertaining the objections to the reference being made in the proposed form. Draft submitted.

A S Rao
21.11.38

(para 10)

Secretary 11 Draft for approval. A copy may be sent to Pol Dept. when issued to Commerce Dept. In the first instance, file extra may go to the D.M. I have discussed with D.M. on telephone, & I think he is prepared to agree ~~to~~ memorandum ~~Gupta~~ we need not inform Gupta about the reference to the Commerce Dept.

H Rumbold
22/11/38

Resident

Clerk Sen
Please send file Order
19 23/xi

District Magistrate, C & M. station, Bangalore

Ref. No. D. 11064-38/Ro.I, dated the 23rd Nov. '38

12

I am sorry to have kept this file so long. I have however gone into the whole question again, consulting the trial judge and corresponding further with Mr. Sastri.

2. The trial Judge (Mr. V.V. Subba Rao) is also of opinion that the claim is excessive. He considers it unreasonable on Mr. Sastri's part to claim, over a period of seven weeks, flat rates for days of work and hours of overtime and he suggests that a reasonable monthly salary might be allowed to Mr. Sastri's various assistants.

3. After further discussion with the Government Pleader I wrote to Mr. Sastri enquiring without prejudice as to the salaries which he pays to his staff. He declined to give this information on the ground that it was a private arrangement between him and his employees. He did however furnish me as I requested with details of the hours of work performed.

4. The flat rates claimed by Mr. Sastri are obviously excessive, and an attempt to assess the fee on the basis of days and hours of work I have adopted lower rates of salary. These have been estimated in accordance with the status of his various assistants and are in my opinion generous. This computation provides for Mr. Sastri's expert evidence in court at Rs.75/- a day; for railway fares; for batta while halting in Bangalore; and for overtime on the hours of work given by Mr. Sastri,

calculated at the monthly salary allowed. I attach a statement showing these calculations, which give a total fee of Rs.3000/-.

5. I do not myself favour a reference to the Commerce Department. In the first place, the case is not readily succeptible of arbitration. No person can assess the claim unless he has a close acquaintance with the work involved. The three gentlemen who have this acquaintance, the trial judge, the Crown Pleader and to a certain extent, the Commissioner of Police, all agree that the claim is exorbitant. Apart from an assessment of the work actually involved, the only but in my opinion decisive criterion is that which I have already indicated in para 3 of my official report, namely the fact that Mr. Sastri was willing to do a five years' audit for Rs.4000/-.

13 Secondly, if the case is referred to the Commerce Department that Department can do no more than refer it to the Board of Accountancy, which except for the Secretary consists of professional auditors or accountants whose opinion is likely to be biassed in favour of a fellow professional.

14 Thirdly, once that opinion is given it will be difficult not to accept it, and I myself see no reason why this administration should thus surrender its discretion. Mr. Sastri's claim is clearly unreasonable, and there should be no difficultyin establishing this should Mr. Sastri decide to go to Court. I suggest that I be authorised to offer him without prejudice a total fee of Rs.3,000/- as calculated above, the method of calculation being briefly explained to Mr. Sastri. If he does not accept this offer I would await his next move, and if he institutes a suit, defend it.

(I may say that I still consider the fee of Rs.2000/- which I first suggested to be reasonable.

But this further attempt to assess the fee may go some way to meet Mr. Sastri and in any case may [illegible] influence the Court if a suit is instituted).

13.4.39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
17 APR. 1939.
Diary No. 3971
File No.

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.
U.O.No. 4499-A-39, dated the 12th April 1939.

15 We may agree

15/4/39

16 Yes. Now is the fee [illegible]

Resident. 16/4.

17 agreed Exact Surplus.

16/4/39.

Resident [illegible]

J.C. 18/4

18 The Collector and District Magistrate may see/file U.O. for information and necessary action.

2.5.39

(paras 14 & 15-17)

2.5.39.

Confidential
C.F.V.Williams, Esq., I.C.S., Coll.r. & D.M.

19 Secy Home. V Low under
Mr. Secy of Legation.

C.R. Cumm
6.5.39

S.R. 00

Confidential.

U.O.No.1666-A-39, dated the 6th May 1939.

20 We may await further developments.

H.C.
6.5.39.

SECY.

H Metcalfe
4/5/39.

Await
15-6-39

21

It is not quite clear how the Sessions Judge may be considered to "now have the jurisdiction" in this matter: it relates to remuneration to be paid to an expert witness who making capital of the absence of a contract charges a fabulous fee running into five figures. Audit might have been ordered by the Trial Court; but the Auditor was engaged not —(he was engaged by the Commr. of Police)— by the Trial Court, in order to be called upon to fix the fee. It is doubtful also whether the Auditor will respond or can be compelled to respond to a notice issued by the Sessions Judge for the purpose of fixing his fee. Nor is there any provision of law for depositing the amount in Court in a case like this. If Mr.Sastri went to Court with his fantastic claim, the admitted ~~claim~~ amount, which has so often been offered to him, could then be deposited to the credit of that suit, and interest and costs thereon might be disallowed to the plaintiff. Please see Order 24 of the Code of Civil Procedure. Perhaps the amount could much rather be sent to him now by cheque or draft.

22.

Although the Sessions Judge may not be competent to deal with the matter in the manner proposed, the District Judge, who would have to deal with the matter in the event of a suit, may be requested u/o. to kindly advise. In case legal proceedings are instituted, the principle of law that would be applicable is as enunciated in para 4 of notes. For orders.

ASRao
13.6.39

(from para 21)

23. Ioque. But we need not send file to Dr. Judge now, as he will hear the suit. I see no objection to sending him Rs 3000/- now, & he can reserve it & file a suit if he wishes

H Mulyan
14/6/39

President 24. √ agree

19/6

25. Draft to the District Magistrate is submitted for approval.

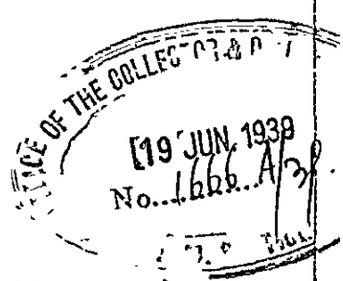
(from para 23)

HSRao
17.6.39 26. Submitted if D.M. see file o/o. No answer need be sent.

Secretary.

H Mulyan
19/6/39.

A



5/30 pm
CR 19/6

D.M. o/o -

District Magistrate, c. Dr. Station, Bangalore

o/o. D. No. 5855-39/Judl., dated the 19th June '39

Seen and returned.

27 2. I presume proceedings will issue sanctioning this amount to enable me to draw this amount from the Treasury and issue a Bank draft.

H.H. Sastri

The Secretary to the Hon'ble the Resident in Mysore, B'lore
U.O.No.1666-A-39, dated the 20th June 1939.

With 2 files & Corr.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
24 JUN. 1939
Diary No. 6428
File No.

28 The question was further examined on 2 points: whether the offer already made to Mr.Sastri to pay Rs.3000/- is sufficient under the law, or if it is not sufficient, will the sending of a cheque or draft constitute proper tender under the Contract Act.

29 Please see section 38 of the Contract Act, 1872. Tender may be called attempted performance of a contract, and has all the requirements of performance, but falls short of actual performance for the sole reason of the wrongful refusal on the part of the other contracting party. So a valid tender must possess all the features of a proper performance. If it is a valid and proper tender, in the case of a tender of money, interest ceases to run from the date of tender.

30 Now there are numerous decisions on the point what constitutes a proper and valid tender. The law may be stated to be that a tender must be unconditional, it must

be

be made at a proper time and place, and it must be in the proper form. The present offer to pay Rs.3000/- has been unconditional, and has been made at the proper time and place. The only question is whether it has been made in the proper form. There are decisions to say that a tender by means of a cheque is not proper unless the other party accepts it or has asked for payment by cheque: 52 Madras 322. That raises the question whether the amount should be sent in cash or a cheque is sufficient.

31 In a case reported in 55 Bombay 525, the defendants sent a solicitors' cheque for the amount due, and that cheque was refused because the plaintiffs claimed that more was due. They did not take the objection that they were not prepared to accept the cheque as legal tender. It was held The solicitors' cheque being refused by the plaintiffs on the ground that it was for a wrong amount and not on the ground that it did not amount to payment in cash, was a good tender. It is well settled, therefore, that where a tender is made by cheque, the objection to the form of the tender may be waived by the other contracting party, and he will be deemed to have waived the tender if he rejects the tender on the ground of the insufficiency in the amount, without making any objection to the legality of the tender. There is no objection, therefore, to send a cheque for the amount of Rs.3000/-.

32 The next question is whether the already offer/made by Collector and District Magistrate to pay a sum of Rs.3000/- amounts to a valid tender in law, or a more formal tender must again be made. (It has already been said that the effect of a valid tender is to stop the running of interest on the amount payable). What Vice-Chancellor Wigram stated in Hunter v. Daniel, as to the true position in such a case, has been quoted with approval in a Privy Council case thus: "The practice of the Court is not to require a party to make a formal tender where from the facts stated

in

in the bill or from the evidence it appears that the tender would have been a mere form and the party to whom it was made would have refused to accept the money" (46 Madras 108)

33

Cor. p. 12
encl. to S.N. 2

In all the circumstances, it appears there has been a valid tender, and the District Magistrate perhaps may only reply to Mr.Sastri's letter of the 27th May 1939 that he has ~~already~~ already offered to pay Rs3000/- and as the offer has been declined, there is nothing more to add in the matter.

But in view of the fact that Government may involve itself in a suit on this account, District Magistrate may perhaps be requested to act in pursuance of these views only after obtaining confirmation from Government Pleader.

34

OFFICE OF THE COLLECTOR & D.M. OF MAGISTRATE
10 JUL. 1939
No. 1666 A/39
C. & M. STATION

AsRao 7.7.39

Secretary

District Magistrate, C. & M. Station, Bangalore
u/o. No. D. 6428-39/Judl., dated the 8th July '39

35. A reply has been sent to Mr.Sastri as suggested, after consulting the Government Pleader.

H.H. Carlton 14.7.39

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE BANGALORE.
Diary No. 7487
File No.

The Secretary to the Hon'ble the Resident in Mysore, B'lore.
U.O.No.1666-A-39, dated the 14th July 1939.

with d/no. S/39 dt 20/7/39

36 No action is necessary on the part of this Residency. After Mr.Sastri writes to District Magistrate, he will send a further report about the case.

Record
AsRao

AsRao 21.7.39

22.7.

CORRESPONDENCE.

CONFIDENTIAL.

No. 4898-A-37 Enc. 3

OFFICE OF THE COLLECTOR AND DISTRICT MAGISTRATE,
CIVIL AND MILITARY STATION, BANGALORE.

Dated 1st November 1938.

FROM

C.F.V. Williams, Esq., I.C.S.

COLLECTOR AND DISTRICT MAGISTRATE,
CIVIL AND MILITARY STATION,
BANGALORE. 1037-37

To

The Secretary to the Hon'ble the Resident in Mysore,

Bangalore.

SIR,

Donation Union Link Case - Auditor's fees - payment of.

Messrs. Sastri & Shah have submitted two bills totalling Rs.102[illegible]64-12-0 for auditing the accounts of the above society and for giving expert evidence on behalf of the prosecution. Copies of the bills are enclosed for information.

2. The orders of the Hon'ble the Resident sanctioning the employment of auditors and fixing their fee were not obtained, as they should have been, before the auditors were engaged; nor was the District Magistrate (my predecessor) addressed on the subject. The Commissioner of Police reports that early in the trial the Additional Sessions Judge directed that the accounts for the charge period should be audited, and as Mr. Sastri had given expert evidence in the committal Court his firm was asked to undertake the audit required by the trial judge and the necessity for obtaining formal orders was overlooked.

please see — S.N. 36 Cor p 58 & S.N. 38 Cor p. 62 & File. 54-37 (B) (Previous)

3. The fee now claimed by the auditors is in the opinion of Mr. Milton and the Public Prosecutor extravagantly high. Some estimate of a reasonable fee may be formed from the following circumstances. During the police investigation of the case the

the Directors of the Link decided that an audit of the accounts for the five years 1931-36 was necessary, and they resolved upon a fee of Rs.4000/- for this purpose. Two of the directors, Messrs. Madhava Rao and W.H.C.Vaz have stated in writing that at this period Mr. Sastri repeatedly offered his services for this five years' audit at the fee of Rs.4000/- Mr. Milton also says that Mr. Sastri approached both him and Mr. McIver on several occasions asking for the engagement. On this basis I think a reasonable fee for the auditors' services would be Rs.2000/-; that is, Rs.1000/- for the audit of one year's accounts which they actually performed, and Rs.1000/- for Mr. Sastri's expert evidence in Court. Mr. Milton and the Public Prosecutor agree that this fee is reasonable.

4. Having first consulted the Government Pleader, I had two interviews with Mr. Sastri and made him an offer of Rs.2000/- "without prejudice" and subject to the approval of the Hon'ble the Resident. Mr. Sastri however declined ~~whatsoever~~ to accept a lesser fee than the total amount claimed viz. Rs.10264-12-0 which he insisted ~~as~~ is reasonable. He is I think endeavouring to take advantage of the fact that his fee was not fixed beforehand. His only suggestion was that the matter should be referred to the Commerce Department of the Government of India for adjudication and he would accept whatever fee was decided upon by that authority.

5. I am reporting the case for the information of the Hon ble the Resident and have no recommendation to make at this stage. Mr. Sastri has declined the offer of Rs.2000/- and the next step may be regarded as resting with him. I do not recommend that the Commerce Department should be asked to arbitrate as he suggests.

6. I asked the Government Pleader for an analysis of the work done by Mr. Sastri and enclose a copy of his reply for information.

I have the honour to be,

Sir,

Your most obedient servant,

COLLECTOR & DISTRICT MAGISTRATE.

13/11/XI

14

SASTRI & SHAH.
(Incorporated Accountants).

Chartered Bank Buildings.
Armenian Street, Madras.

Duplicate of Bill No.1034 of 2-7-1937.

No.1057. 20th November 1937.

The Commissioner of Police,

C & M Station, Bangalore.

Dr.

	Rs.	a.	p.	Rs.	a.	p.
For professional services rendered in connection with the Criminal case No.22 of 1936 in going through the account books on the 17th June, 1937 for one day.	75	0	0			
To and fro Railway Fare between Madras and Bangalore in connection with the above	55	8	0	130	8	0
Rupees One Hundred and Thrity and annas eight only.				130	8	0
E & O.E.						

"C o p y"

M Ecshaffer

Sheriatadar.

M 2/41

15

SASTRI & SHAH
(Incorporated Accountants.)
C h a r t e r e d B a n k B u i l d i n g s.
Armenian Street, Madras.

No.1055. 20th November, 1937.

The District Magistrate, Through the Commissioner of Police, C & M Station, Bangalore

Dr.

	Rs. a. p.	Rs. a. p.
Fees for services rendered as expert witness in Ses.C.No.6 of 1937 on the file of the Additional Sessions Judge, C & M Station, Bangalore.		
Mr.C.S. Sastri:		
47 days at Rs.75/- per day	3,525 0 0	
77 hours of overtime at Rs.15/- per hour	1,155 0 0	4,680 0 0
Mr. S. Ramachandran, Senior Assistant:		
241 hours usual time and 132 hours overtime i.e. 373 Hours at Rs.5/- per hour.		1,865 0 0
Miss.R. Sivabogam Senior Assistant:		
199 hours usual time and 115 hours overtime i.e. 314 hours at Rs.5/- per hour.		1,570 0 0
Mr. U. Krishna Rao, Junior Assistant:		
100 Hours usual time and 71 hours over time i.e. 171 hours at Rs.3/- per hour.		513 0 0
Mr.K. Shankar Rao: Junior Assistant:		
80 hours usual time and 56 hours over-time i.e. 136 hours at Rs.3/- per hour		408 0 0
Mr.K.S. Lakshminarayanan, Typist:		
19 days at Rs.5/- per day		95 0 0
Job Typist.		
6 days at Rs.5/- per day.		30 0 0
1. First Class and 5 Second Class railway fares to and fro Madras and Bangalore.		194 4 0
Taxi, Hotel and other out of pocket expenses incurred solely in connection with the work.		779 0 0
(Rupees ten Thousand one hundred thirty four and annas four only.)		10,134 4 0

E.& O.E.

"C o p y"

M. Krishnaiyer

Sheristadar.

22/11

Demi-official confidential letter No.P.Pr.43/38, dated the 13th October 1938, from the ~~Public Prosecutor~~ Government Pleader, Civil and Military Station, Bangalore, to the: D.C. Magistrate, Cantt., Bangalore.

-----:0:-----

Donation Union Link Case - Audit of Accounts by Messrs. Sastri and Shah - discussion with Mr. Sastri on the 6th September 1938.

With reference to your D.O. letter No.4898-A-38, dated the 26th September 1938, I must premise first of all that in the very nature of things it is not easy to classify the work done by Mr. Sastri into so many well defined items. And as I said once before, I was not in the case at the time Mr. Sastri's services were engaged and do not know what work he was engaged for. In fact on the very first day I was appointed Additional Public Prosecutor, I found Mr. Sastri and his staff working at the Link's accounts in the Court Hall. As the case progressed I requisitioned his assistance in understanding some aspects of the accounts and was told by him and his Assistants that they had been asked only to ascertain the total receipts of money into the Link for the year 1931-32 and also the total money duly accounted for and thus fix the amount misappropriated, as approximately as possible. On this ground I remember having been put off several times both by Mr. Sastri and his staff.

During the examination of the other witnesses in the case, the Judge remarked that several other statements of accounts compiled with reference to various aspects should have to be prepared for the purposes of the case. As such it became necessary to tabulate various statements but in regard to these statements, I do not think Mr. Sastri can claim exclusive credit to himself or to his staff either for the labour or for the idea. The Inspector of Police and the Accountant of the Link, members of the Link staff and the Court clerk and we the Additional Public Prosecutors all worked along with Mr. Sastri in preparing these statements and the Judge himself used to take the books home and make copious notes in the various books or various slips of paper

and make the material available to us for the statements. The statements, though prepared by all of us had to be put in evidence only through Mr. Sastri as the other people who took part in the preparation of the statements could not be examined as witnesses in the case and could not produce the statements in evidence.

However, we can form an idea about the work done by Mr. Sastri with reference to his report and the annexures thereto. I am giving herein a detailed list of the annexures.

Annexure No.	Description.	No. of pages.
1.	Abstract of receipts for 1931-32 as per members Ledgers.	3
2.	Lists for which amounts were received before 30-6-1931 but posted in the Members' Ledgers in July, 1931	1
3.	Lists for which amounts were received before 30-6-1932, but posted in the Members' Ledgers in July, 1932.	1
4.	Corrections to be made to the amounts received from Members for the year 1931-32 as per the Cash Day Books - Receipts (Exs. ZRR and G.)	1
5.	Corrections to be made to the expenditure for 1931-32 in respect of the deductions made on the lists as per the Cash Day Books Expenditure (Exs. O_5 and O)	1
6.	Statement indicating the percentage of Agents' expenses to the total receipts of the lists for the year 1931-32.	1
7.	Corrections to be made to the total amount as per Ex.W for the year 1931-32.	1
8.	Statement for receipts as per the Managers' Cash Day Books Exs. P_1 and P for the year 1931-32.	14
9.	Amounts received and deposited in the Imperial Bank of India, Bangalore, on the dates when the Manager was either absent or sick but not entered in the Manager's Cash Day Books. Exs. P_1 or P.	1
10.	Amounts shown as deposits in the statement of current account of the Imperial Bank of India, Bangalore, Ex. JJ_1 for which there are no corresponding entries in the Manager's Cash Day Books, Exs. P_1 P	2
11.	Discrepancies in checking payments other than Bank Deposits as per the Manager's Cash Day Books Exs. P_1 and P with the Cash Day Books - Expenditure Exs. O_5 and O for the year 1931-32.	2

Annexure No.	Description.	No. of pages.
12.	Some discrepancies in the balances carried forward in the Manager's Cash Day Books, Exs. P1 and P.	1.
13.	Statement showing some amounts actually received and entered in the Cash Day Books - Receipts Ex.G. but not accounted in the Manager's Cash Day Books. Ex.P.	1.
14.	Discrepancies in checking the Manager's Cash Day Books Exs.P1 and P with the Money Order Registers Exs. ZYY, etc.	1.
15.	Testing the postings of the accounted lists Ex.FFFFF into the Members' Ledgers	2.
16.	Statement of unaccounted lists, Exs.00 to TT.	2.
17.	List of members' accounts checked to which some amounts were posted from the second bundle lists, Exs.00 to TT.	7.
18.	Statement of some claim payments for the year 1931-32 in respect of which one or more of the last three items in the Members' Ledgers are posted from the lists entered in Ex.W.	1.
19.	Allocation of payments to the Auditor	1.
20.	Payments made to the Auditor as per the Cash Day Books - Expenditure, Exs.O5 and O.	3.
21.	Alterations of entires in the Donation Register, Ex.ZKKKK1	2.
22.	Adjusted statement of total gross receipts from members for the year 1931.32 as per the Member's Ledgers	1.
23.	Statement showing the amount misappropriated in the year 1931-32 without bringing the same into accounts.	1.
24.	Cash on hand on 30th June, 1932.	1.
25.	Statement of some Demand Drafts received and cashed by the Manager in the years 1931 and 1932 but not entered in Ex.P1 or P.	

Of the above, the statements prepared exclusively by Mr. Sastri and his staff are the statements 1,6,22 and 23 and in the beginning of the case I understood from Mr. Sastri and his Assistants that this was the only work that was expected of them.

Statements 2,3,4 5 and 7:- These statements go together and are merely different ways of tabulating the same facts and figures. The materials for these had really been prepared by

the Judge's notes in what are called "Rougn Registers of Donations". Some of the material for these statements had been furnished by us also.

Statements 8 to 14:- These also go together and are really compiled with reference to what are called "The Manager's Cash Day Books". For these also the idea was suggested by the Judge and the work was done by all of us including Mr. Sastri and his staff.

Statements 15.16 and 17:- These statements, altough put through Mr. Sastri, were compiled really by us, in particular the Inspector of Police and the Accountant of the Link.

Statements 18.19, 20 and 21:- were made out by all of us, they having been suggested in the course of the cross-examination of the Inspector of Police by the Counsel, Mr. P. Rajaratnam who was then appearing for the accused.

Statement 25 was really suggested by the Judge and in tabulating it we rendered material assistance to Mr. Sastri.

With regard to Statement 18 I would observe that several of the examples, given in that statement in so far as they were selected by Mr. Sastri and his assistants proved to be wrong and it is only 4 or 5 out of the number that proved correct. These examples, however, were given by the Accountant of the Link and verified by all of us.

In fact my difficulty in giving you an exact analysis of the work consists in the fact that I was not in the case when he was first asked to work. In the course of his cross-examination Mr. Sastri had to admit that various mistakes had been committed by him and his Assistants particularly in regard to statement 18. As regards the investigation of Exhibit "W" in the case, "the Register of unaccounted lists" which is the most important document in the case, he stated that he had not scrutinized it but having been told that it was the "Register of Unaccounted Lists" ne assumed it as such. Mr. Sastri infact stated that he had investigated nothing in connection with Exhibit "W". From a perusal of the judgment also it will be clar that the learned Judge has only casually referred to the statements of Mr. Sastri

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and on the contrary he has relied upon various statements prepared by himself and us. A reading of his evidence will more than ~~than~~ convince anybody that on several matters he was not prepared, even during his examination in chief, and took time to get ready with the necessary statements. On the whole the most substantial work for which he had been engaged and for which he can claim exclusive credit is the assertainment of the total receipts and expenditure and the amount unaccounted for in the accounts.

Should any further explanations be wanted I shall render the same personally.

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"C o p y"

M Eechhaffer

Sheristadar.

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CONFIDENTIAL.

No. 1666-A-39 Enc.1.

S. N.2

Office of the District Magistrate,
Civil and Military Station, Bangalore.

Dated 7th June 1939.

FROM

H.H. Carleston, Esq., I.C.S.,
DISTRICT MAGISTRATE, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 JUN. 1939
Diary No. 5-833
File No.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

SIR,

Donation Union Link Case - audit of accounts - payment of fees.

I enclose a copy of letter dated the 27th May 1939 received from Mr.C.S.Sastri. As the audit was ordered by the trial court, I suggest that the present Sessions Judge, who now has the jurisdiction, may be requested to fix the fee to be paid to Mr.Sastri, after notice to both sides, if he considers it necessary, and to pay him the amount on its being deposited by us in Court.

I have the honour to be,

Sir,

Your most obedient servant,

H.H. Carleston

DISTRICT MAGISTRATE.

DETACHED
7 JUN. 1939

MAB.7/6.

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Mr. C.S. Sastri, C/o

Letter dated the 27th May 1939 from/Messrs. Sastri and Shah, Oriental Buildings, Armenian Street, Madras to the Collector and District Magistrate, Civil and Military Station, Bangalore.

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Re: Donation Union Link Case - Audit of Accounts - Payment of Fees.

I am in due receipt of your office letter No.1666-A.39, dated the 6th instant on the above subject and your reminder thereto dated the 22nd instant.

Without going into details I regret I cannot accept the sum of Rs.3,000/- offered to me in full payment of my Bill No.1055, dated 20th November 1937 amounting to Rs.10,134-4-0 in total.

As I already suggested in my previous letters you may please refer the matter to the Secretary, Indian Accountancy Board, Simla, who is a competent authority to deal with the fixing of fees in matters like this.

Please let me know your final decision early so as to enable to make my arrangements for collecting the fees due to me long outstanding.

---:O:---

"C O P Y"

M Seshaiyer

SHERESTADAR.

MS.